

ORDINANCE _____

AN ORDINANCE related to land use and zoning; revising regulations for Downtown Seattle; amending the scope of Design Review departures from Land Use Code requirements; repealing, amending and adding definitions; amending, repealing and re-codifying various provisions and maps of the City of Seattle Land Use Code, Title 23 of the Seattle Municipal Code; providing for penalties; adopting Downtown Amenity Standards; providing for conditions to bonus development, including Leadership in Energy and Environmental Design (“LEED”) criteria; and amending the Official Land Use Map, SMC 23.32, to rezone portions of Downtown.

WHEREAS, on July 23, 2001, the City Council enacted Ordinance 120443, modifying development regulations for downtown zones in response to certain recommendations of the Downtown Urban Center Planning Group (DUCPG) in the Downtown Urban Center Neighborhood Plan; and

WHEREAS, Ordinance 120443 enacted major revisions to the floor area bonus and the transfer of development rights (TDR) provisions to promote affordable housing and other public amenities that mitigate the impacts of growth; and

WHEREAS, Ordinance 120443 was to be followed by recommendations for further modifications to development regulations in downtown zones that would reinforce these initial actions for accommodating both housing and employment growth downtown consistent with the City's Comprehensive Plan and Downtown neighborhood plans; and

WHEREAS, the City has conducted analysis and public review of several alternatives to develop a preferred recommendation that will help achieve the goals for Seattle's Comprehensive Plan and Downtown neighborhood plans; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Official Land Use Map, as incorporated in Section 23.32.016 of the Seattle Municipal Code and as previously amended, is hereby further amended to rezone certain properties located on Plat 35W, page 100, Plat 35E, page 101, Plat 36W, page 102, Plat 39W, page 108, Plat 39E, page 109, Plat 40W, page 110, Plat 43E, page 115, and Plat 44W, page 116 as shown on Attachment 1 to this Ordinance.

Section 2. The City Council finds that the provisions of this Ordinance will implement the Comprehensive Plan and protect and promote public health, safety and welfare.

Section 3. Within Chapter 23.49 of the Seattle Municipal Code, Subchapters are hereby redesignated as follows: Subchapter I, General Provisions, includes sections 23.49.001 through 23.49.041, inclusive; Subchapter II, Downtown Office Core 1, Downtown Office Core 2, and Downtown Mixed Commercial, includes sections 23.49.042 through 23.49.058, inclusive; Subchapter III, Downtown Retail Core, includes sections 23.49.090 through 23.49.108, inclusive; Subchapter IV, Downtown Mixed Residential, includes sections 23.49.140 through 23.49.166, inclusive; Subchapter V, Pioneer Square Mixed, includes sections 23.49.170 through 23.49.178, inclusive; Subchapter VI, International District Mixed, includes sections 23.49.198 through 23.49.208, inclusive; Subchapter VII, International District Residential, includes sections 23.49.223 through 23.49.248, inclusive; Subchapter VIII, Downtown Harborfront 1, includes sections 23.49.300 through 23.49.306, inclusive; Subchapter IX, Downtown Harborfront 2, includes sections 23.49.318 through 23.49.332, inclusive; Subchapter X, Pike Place Market, includes sections 23.49.336 through 23.49.338, inclusive.

Section 4. Subsection A of Section 23.41.004 of the Seattle Municipal Code, which Section was last amended by Ordinance 121782, is amended to read as follows:

Section 23.41.004 Applicability.

A. Design Review Required.

1. Design review is required for any new multifamily or commercial structure that exceeds SEPA thresholds if the structure:

a. Is located in one (1) of the following zones:

i. Lowrise (L3, L4),

ii. Midrise (MR),

iii. Highrise (HR),

iv. Neighborhood Commercial (NC1, 2, 3)

v. Seattle Mixed (SM), or

vi. Industrial Commercial (IC) zone within the South Lake Union
Urban Center; or

b. Is located in a Commercial (C1 or C2) zone, and:

i. The proposed structure is located within an urban village area
identified in the Seattle Comprehensive Plan, or

ii. The site of the proposed structure abuts or is directly across a
street or alley from any lot zoned single-family, or

iii. The proposed structure is located in the area bounded by NE
95th Street on the south, NE 145th Street on the north, 15th Ave NE on the west, and Lake
Washington on the east.

2. Design review is required for all new Major Institution structures that exceed
SEPA thresholds in the zones listed in subsection A1 of this section, unless the structure is
located within a Major Institution Overlay (MIO) district.

3. Downtown design review is required for all new ~~((multifamily and
commercial))~~ structures that ((greater than or)) equal or exceed any of ((to)) the following
thresholds:

DOC 1~~((and))~~, DOC 2 ~~((and))~~ or DMC Zones

Use	Threshold
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DOC 1(~~(and)~~), DOC 2 (~~(and)~~) or DMC Zones

Use	Threshold
Nonresidential	50,000 square feet of gross floor area
Residential	20 dwelling units

DRC, (~~(DMC)~~), DMR, DH1 or DH2

Use	Threshold
Nonresidential	20,000 square feet of gross floor area
Residential	20 dwelling units

4. Design review is required for all new structures exceeding one hundred and twenty (120) feet in width on any single street frontage in the Stadium Transition Area Overlay District as shown in Exhibit 23.41.006 A.

5. Administrative Design Review to Protect Trees. As provided in Sections 25.11.070 and 25.11.080, administrative design review (Section 23.41.016) is required for new multifamily and commercial structures in Lowrise, Midrise, and commercial zones when an exceptional tree, as defined in Section 25.11.020, is located on the site, if design review would not otherwise be required by this subsection A.

6. New multifamily or commercial structures in the zones listed in subsection A1 of this section, that are subject to SEPA solely as a result of the provisions of Section 25.05.908, Environmentally Critical Areas, are exempt from design review except as set forth in subsection A5 of this section.

* * *

Section 5. Section 23.41.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 121782, is hereby repealed.

Section 6. Part 1 of Chapter 23.41 is amended to add the following new section, including Exhibit 23.41.012 A and Exhibit 23.41.012 B, which are attached to this ordinance as Attachment 4 and incorporated herein by this reference:

23.41.012 Development standard departures.

A. Departure from Land Use Code requirements may be permitted for new multifamily, commercial, and Major Institution development as part of the design review process. Departures may be allowed if an applicant demonstrates that departures from Land Use Code requirements would result in a development that better meets the intent of adopted design guidelines.

B. Departures may be granted from any Land Use Code standard or requirement, except for the following:

1. Procedures;
2. Permitted, prohibited or conditional use provisions, except that departures may be granted from development standards for required Downtown street level uses;
3. Residential density limits;
4. In downtown zones, provisions for exceeding the base FAR or achieving bonus development as provided in Chapter 23.49;
5. In downtown zones, the minimum size for Planned Community Developments as provided in Section 23.49.036;
6. In downtown zones, the average floor area limit for stories in residential use in Chart 23.49.058D1;

1 7. In Downtown zones, the provisions for combined lot developments as
2 provided in Section 23.49.041;

3 8. In Downtown Mixed Commercial zones, tower spacing requirements as
4 provided in 23.49.058E;

5 9. Downtown view corridor requirements, provided that departures may be
6 granted to allow open railings on upper level roof decks or rooftop open space to project into the
7 required view corridor, provided such railings are determined to have a minimal impact on views
8 and meet the requirements of the Building Code;

9 10. Floor Area Ratios;

10 11. Maximum size of use;

11 12. Structure height, except that:

12 a. Within the Roosevelt Commercial Core building height departures may
13 be granted (up to an additional three (3) feet) for properties zoned NC3-65', (Exhibit 23.41.012
14 A, Roosevelt Commercial Core);

15 b. Within the Ballard Municipal Center Master Plan area building height
16 departures may be granted for properties zoned NC3-65', (Exhibit 23.41.012 B, Ballard
17 Municipal Center Master Plan Area). The additional height may not exceed nine (9) feet, and
18 may be granted only for townhouses that front a mid-block pedestrian connection or a park
19 identified in the Ballard Municipal Center Master Plan;

20 c. In Downtown zones building height departures may be granted for
21 minor communication utilities as set forth in Section 23.57.013B;

22 13. Quantity of parking required, maximum parking limit in Downtown zones,
23 and maximum number of drive-in lanes, except that within the Ballard Municipal Center Master

Plan area required parking for ground level retail uses that abut established mid-block pedestrian connections through private property as identified in the "Ballard Municipal Center Master Plan Design Guidelines, 2000" may be reduced. The parking requirement shall not be less than the required parking for Pedestrian designated areas shown in Section 23.54.015 Chart D;

14. Provisions of the Shoreline District, Chapter 23.60;

15. Standards for storage of solid-waste containers;

16. The quantity of open space required for major office projects in Downtown zones as provided in Section 23.49.016B;

17. Noise and odor standards.

Section 7. Section 23.42.124 of the Seattle Municipal Code, which Section was last amended by Ordinance 120293, is amended as follows:

23.42.124 Light and glare standards nonconformity.

When nonconforming exterior lighting is replaced, new lighting shall conform to the requirements of the light and glare standards of the respective zone. See subsection H of Section 23.44.008 for single-family zones; Section 23.45.017 for lowrise zones; Section 23.45.059 for midrise zones; Section 23.45.075 for highrise zones; Section 23.46.020 for residential commercial zones; Section 23.47.022 for commercial zones; Section 23.49.025~~((23.49.010))~~ for downtown zones; and Section 23.50.046 for industrial buffer and industrial commercial zones.

Section 8. Subsection C of Section 23.49.002 of the Seattle Municipal Code, which Section was last amended by Ordinance 120928, is amended as follows:

23.49.002 Scope of provisions.

* * *

C. ~~((The requirements))~~ Standards and guidelines for amenity ~~((public benefit))~~ features are found in the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards.

* * *

Section 9. Section 23.49.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 121359, is amended as follows:

23.49.008 Structure height.

The following provisions regulating structure height apply to all property in downtown zones except the DH1, PSM, IDM, and IDR zones.

A. Base and Maximum Height Limits.

1. Maximum structure heights for downtown zones, except PMM, are fifty-five (55) feet, sixty-five (65) feet, eighty-five (85) feet, ~~((one hundred (100) feet))~~ one hundred twenty-five (125) feet, one hundred fifty (150) feet, one hundred sixty (160) feet, two hundred forty (240) feet, ~~((three hundred (300) feet))~~, three hundred forty (340) feet, four hundred (400) ((and four hundred fifty (450))) feet, five hundred (500) feet, and unlimited, as designated on the Official Land Use Map, Chapter 23.32. ~~((The height of a structure shall not exceed the maximum structure height, except that:~~

1. ~~Any lot in the Pike Market Mixed zone that is subject to an urban renewal covenant may be built no higher than the height permitted by the covenant for the life of the covenant.~~

2. ~~Any lot that meets the provisions of this subsection may gain additional structure height using one, but not both, of subsections 2a and 2b below:~~

a. ~~A structure in a DOC1 zone, or in a DOC2 zone, may gain additional height of ten (10) percent of the maximum structure height, when:~~

1 (1) ~~The gross floor area of each story wholly or partly above the~~
2 ~~maximum structure height is no greater than eighty (80) percent of the gross floor area of at least~~
3 ~~one story below the maximum structure height, which story must have gross floor area no greater~~
4 ~~than that of each story lower than it that is wholly above a height of one hundred twenty five~~
5 ~~(125) feet, except that structures on lots zoned both DOC1 and DMC are not subject to this~~
6 ~~provision. For structures with separate towers, the limits on area apply to each tower~~
7 ~~individually; and~~

8 (2) ~~The above-grade gross floor area in all structures on the lot,~~
9 ~~including all floor area exempt from FAR limits, except exempt street level uses, museums and~~
10 ~~museum expansion space, within block TDR transferred from a lot zoned DMC to a lot zoned~~
11 ~~DOC1, and bonused housing, does not exceed the sum of the maximum FAR for the lot~~
12 ~~established by Section 23.49.011 plus any credit floor area above the maximum structure height~~
13 ~~allowed under Section 23.49.041, City/County Transfer of Development Credits Program.~~

14 b. ~~A structure within the area shown on Map 10 may gain additional~~
15 ~~height of twenty (20) percent of the maximum structure height, when the conditions in~~
16 ~~subsection A2a of this section are satisfied, and either:~~

17 (1) ~~The lot satisfies one of the following conditions: (A) at least~~
18 ~~twenty-five (25) percent of the lot area at street level is in open space use or occupied by~~
19 ~~structures, or portions of structures, no greater than thirty five (35) feet in height, or any~~
20 ~~combination thereof; or (B) at least fifty (50) percent of the lot area at street level is in open~~
21 ~~space use or occupied by structures, or portions of structures, no greater than sixty five (65) feet~~
22 ~~in height, or any combination thereof; or (C) at least fifteen (15) percent of the lot area at street~~
23 ~~level is (1) in open space use that is on the same lot as a museum or a museum expansion space,~~

~~or (2) a public atrium is proposed as part of a museum or museum expansion space, or (3) any combination thereof; or~~

~~(2) The lot contains a Landmark structure and satisfies all conditions to the transfer of Landmark TDR from such lot under this chapter and the Public Benefit Features Rule, other than conditions related to the availability of unused base floor area.))~~

In certain zones, as specified in this section, the maximum structure height may be allowed only for particular uses or only on specified conditions, or both.

2. Except in the PMM zone, the base height limit for a structure is the lowest of the maximum structure height or the lowest other height limit, if any, that applies pursuant to the provisions of this title based upon the uses in the structure, before giving effect to any bonus for which the structure qualifies under this chapter and to any special exceptions or departures authorized under this chapter. In the PMM zone the base height limit is the maximum height permitted pursuant to urban renewal covenants.

3. In zones listed below in this subsection A3 there is a base height limit for portions of a structure containing nonresidential and live-work uses, which is shown as the first figure after the zone designation (except that there is no such limit in DOC1), and a base height limit that applies to portions of a structure in residential use, shown as the figure following the “/”. The third figure shown is the highest possible applicable height limit for a structure that uses the bonus available under 23.49.015 and has no nonresidential or live-work use above the first height limit shown for that zone:

DOC1_Unlimited/450 – Unlimited

DOC2 500/300-500

1 DMC 340/290-400

2 DMC 240/290-400.

3 ~~((3. On any lot in the DRC a height of one hundred fifty (150) feet is permitted subject to~~
4 ~~the restrictions in subsection 4 of this section in the following cases:))~~ 4. In the DRC zone, the
5 base height limit is 85 feet, except that, subject to the conditions in subsection A5 of this section:

6 a. The base height limit is 150 feet when any of the following conditions
7 is satisfied:

8 ~~((a))~~ i. When all portions of a structure above eighty-five (85) feet contain
9 only residential use; or

10 ~~((b))~~ ii. When at least twenty-five (25) percent of the gross floor area of
11 all structures on a lot is in residential use; or

12 ~~((c))~~ iii. When a minimum of 1.5 FAR of retail sales and service or
13 entertainment uses, or any combination thereof, is provided on the lot~~((; or))~~.

14 ~~((d))~~ b. For residential floor area created by infill of a light well on a
15 Landmark structure, the base height limit is the lesser of 150 feet or the highest level at which
16 the light well is enclosed by the full length of walls of the structure on at least three sides. For the
17 purpose of this subsection a light well is defined as an inward modulation on a non-street facing
18 facade that is enclosed on at least three sides by walls of the same structure, and infill is defined
19 as an addition to that structure within the light well. ~~((The maximum height allowed under this~~
20 ~~subsection A3d shall be the lesser of one hundred fifty (150) feet or the highest level at which the~~
21 ~~light well is enclosed by the full length of walls of the structure on at least three sides.))~~

22 ~~((4))~~ 5. Restrictions on Demolition and Alteration of Existing Structures.

1 a. Any structure in a DRC zone that would exceed the eighty-five (85) foot
2 ((~~maximum~~)) base height limit shall incorporate the existing exterior street front facade(s) of
3 each of the structures listed below, if any, located on the lot of that project. The City Council
4 finds that these structures are significant to the architecture, history and character of downtown.
5 The Director may permit changes to the exterior facade(s) to the extent that significant features
6 are preserved and the visual integrity of the design is maintained. The degree of exterior
7 preservation required will vary, depending upon the nature of the project and the characteristics
8 of the affected structure(s).

9 b. The Director shall evaluate whether the manner in which the façade is
10 proposed to be preserved meets the intent to preserve the architecture, character and history of
11 the Retail Core. If a structure on the lot is a Landmark structure, approval by the Landmarks
12 Preservation Board for any proposed modifications to controlled features is required prior to a
13 decision by the Director to allow or condition additional height for the project. The Landmarks
14 Preservation Board's decision shall be incorporated into the Director's decision. Inclusion of a
15 structure on the list below is solely for the purpose of conditioning additional height under this
16 subsection, and shall not be interpreted in any way to prejudge the structure's merit as a
17 Landmark:

18	Sixth and Pine Building	523 Pine Street
19	Decatur	1513-6th Avenue
20	Coliseum Theater	5th and Pike
21	Seaboard Building	1506 Westlake Avenue
22	Fourth and Pike Building	1424-4th Avenue
23	Pacific First Federal Savings	1400-4th Avenue

1	Joshua Green Building	1425-4th Avenue
2	Equitable Building	1415-4th Avenue
3	Mann Building	1411-3rd Avenue
4	Olympic Savings Tower	217 Pine Street
5	Fischer Studio Building	1519-3rd Avenue
6	Bon Marche (<u>Macy's</u>)	3rd and Pine
7	Melbourne House	1511 - 3rd Avenue
8	Former Woolworth's Building	1512 - 3rd Avenue

9 c. The restrictions in this subsection ((4)) 5 are in addition to, and not in
10 substitution for, the requirements of the Landmarks Ordinance, SMC Chapter 25.12.

11 ~~((5. Any structure on a lot on either of the two half blocks abutting the east side
12 of 2nd Avenue, between Pine and Union Streets, that qualifies for the one hundred fifty (150)
13 foot height limit under subsection A3 of this section, is allowed a height limit of one hundred
14 ninety-five (195) feet if all portions of the structure above eighty-five (85) feet in height contain
15 only residential use.))~~

16 ~~((6. A structure on any lot in the Denny Triangle Urban Village, as shown on
17 Map 23.49.041A, may gain up to an additional thirty (30) percent in height if credit floor area is
18 allowed pursuant to Section 23.49.041, City/County Transfer of Development Credits Program.
19 The maximum height that may be allowed is one hundred thirty (130) percent of the maximum
20 structure height.))~~

21 6. The applicable height limit for a structure is the base height limit plus any
22 height allowed as a bonus under this chapter and any additional height allowed by special
23

1 exception or departure. The height of a structure shall not exceed the ~~((maximum structure))~~
2 applicable height limit, except as provided in subsections B, C and D of this section ~~((that:))~~.

3 7. The height of ~~((R))~~ rooftop features, as provided in subsection ~~((C))~~ D, ~~((are))~~ is
4 allowed to exceed the ~~((maximum structure))~~ applicable height limit ~~((in addition to the extra~~
5 ~~height permitted under this subsection))~~.

6 B. Structures located in DMC 240/290-400 or DMC 340/290-400 zones may exceed the
7 maximum height limit for residential use by ten (10) percent of that limit if:

8 1. the facades of the portion of the structure above the limit do not enclose an area
9 greater than 9,000 square feet, and

10 2. the enclosed space is occupied only by those uses or features otherwise
11 permitted in this Section as an exception above the height limit.

12 This exception shall not be combined with any other height exception for screening or rooftop
13 features to gain additional height.

14 ~~((B))~~ C. Height in ~~((In))~~ Downtown Mixed Residential (DMR) zones ~~((height))~~ is ~~((shall~~
15 ~~be))~~ regulated as follows:

16 1. No portion of a structure ~~((which))~~ that contains only nonresidential or live-
17 work uses ~~((, and no portion of a mixed use structure which contains nonresidential or live work~~
18 ~~uses,))~~ may ~~((extend beyond))~~ exceed the lower height limit established on the Official Land Use
19 Map, except for rooftop features permitted by subsection ~~((C))~~ D of this section.

20 2. Portions of ~~((S))~~ structures ~~((which))~~ that contain only residential uses ~~((, and~~
21 ~~portions of mixed use structures which contain only residential uses,))~~ may extend to the higher
22 height limit established on the Official Land Use Map.

23 ~~((C))~~ D. Rooftop Features.

1 1. The following rooftop features are permitted with unlimited rooftop coverage
2 and may not exceed the height limits as indicated:

3 a. Open railings, planters, clerestories, skylights, play equipment, parapets
4 and firewalls up to four (4) feet above the ~~((maximum))~~ applicable height limit;

5 b. Solar collectors up to seven (7) feet above the ~~((maximum))~~ applicable
6 height limit; and

7 c. The rooftop features listed below shall be located a minimum of ten
8 (10) feet from all lot lines and may extend up to fifty (50) feet above the roof of the structure on
9 which they are located or fifty (50) feet above the ~~((maximum))~~ applicable height limit,
10 whichever is less, except as regulated by Chapter 23.64, Airport Height Overlay District:

11 (1) Religious symbols for religious institutions,

12 (2) Smokestacks, and

13 (3) Flagpoles.

14 ~~((They shall be located a minimum of ten (10) feet from all lot~~
15 ~~lines.))~~

16 2. The following rooftop features are permitted up to the heights indicated below,
17 as long as the combined coverage of all rooftop features, whether or not listed in this subsection
18 2, does not exceed ~~((twenty (20)))~~ fifty-five (55) percent of the roof area for structures that are
19 subject to maximum floor area limits per story pursuant to Section 23.49.058, or thirty-five (35)
20 percent of the roof area for other structures ~~((, or twenty five (25) percent if the total includes~~
21 stair or elevator penthouses or screened mechanical equipment. Except in the PMM zone,
22 ~~((additional)) combined coverage of all rooftop features, not to exceed fifty (50) percent of the~~
23

1 ~~roof area, may be permitted through the design review process for development standard~~
2 ~~departures in Section 23.41.012)).~~

3 a. The following rooftop features are permitted to extend up to fifteen (15)
4 feet above the ~~((maximum))~~ applicable height limit:

5 (1) Solar collectors;
6 (2) Stair penthouses;
7 (3) Play equipment and open-mesh fencing, as long as the fencing
8 is at least fifteen (15) feet from the roof edge;

9 (4) Covered or enclosed common recreation area; and

10 (5) ~~((4))~~ Mechanical equipment. ~~((; and~~

11 ~~(5) Mechanical equipment, whether new or replacement, may be~~
12 ~~allowed up to fifteen (15) feet above the roof elevation of a structure existing prior to June 1,~~
13 ~~1989)).~~

14 b. Elevator penthouses ~~((are permitted to extend beyond the maximum~~
15 ~~height limit))~~ as follows:

16 (1) In the PMM zone, up to fifteen (15) feet above the
17 ~~((maximum))~~ applicable height limit ~~((for the zone));~~

18 (2) Except in the PMM zone, up to twenty-three ~~((20))~~ (23) feet
19 above the ~~((maximum))~~ applicable height limit for a penthouse designed for an elevator cab up to
20 eight (8) feet high; ~~((or))~~

21 (3) Except in the PMM zone, up to twenty-~~((two))~~ five ~~((22))~~ (25)
22 feet above the ~~((maximum))~~ applicable height limit for a penthouse designed for an elevator cab
23 more than eight (8) feet high; ~~((;))~~

(4) Except in the PMM zone, when the elevator provides access to a rooftop designed to provide usable open space, an additional ten (10) feet above the amount permitted in subsections (2) and (3) above shall be permitted.

c. Minor communication utilities and accessory communication devices, regulated according to Section 23.57.013, shall be included within the maximum permitted rooftop coverage.

3. Screening of Rooftop Features.

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection ((C))D2 of this section.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten (10) percent of the ~~((maximum))~~ applicable height limit ~~((of the zone in which the structure is located))~~, or fifteen (15) feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative Conditional Use for Rooftop Features. Except in the PMM zone, ((F))the rooftop features listed in subsection ((C))D1c of this section may exceed a height of fifty (50) feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use, Chapter 23.76. The request for additional

height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's land use policies, and the following specific criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar and visual access of properties within a three hundred (300) foot radius.

c. The feature, supporting structure and structure below shall be compatible in design elements such as bulk, profile, color and materials.

d. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

5. Residential Penthouses Above Height Limit in DRC Zone.

a. A residential penthouse exceeding the ~~((maximum allowable))~~ applicable height limit shall be permitted in the DRC zone only on a mixed-use, City-designated Landmark structure for which a certificate of approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this section may cover a maximum of fifty (50) percent of the total roof surface. Except as the Director may allow under subsection ~~((C))~~ D5b of this section:

(1) A residential penthouse allowed under this subsection shall be set back a minimum of fifteen (15) feet from the street property line.

(2) A residential penthouse may extend up to eight (8) feet above the roof, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within three hundred (300) feet from the structure, the Director may allow one or both of the following in a Type I decision:

(1) An increase of the penthouse height limit under subsection ((C))D5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) A reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection ((C))D5b must be consistent with the certificate of approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum ~~((permitted))~~ structure height ~~((that could be permitted))~~ in the DRC zone ~~((by the City Council as provided in))~~ under Section 23.49.008 ~~((A1))~~.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection ((C))D5.

6. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.013.

Section 10. Subchapter I of Section 23.49 is amended to add the following new section:

23.49.009 Street-level use requirements.

One or more of the uses listed in subsection A are required at street level on all lots abutting streets designated on Map 1G. Required street-level uses shall meet the standards of this section.

1 A. Types of Uses. The following uses qualify as required street-level uses:

- 2 1. Retail sales and services, except lodging;
3 2. Human service uses and childcare facilities;
4 3. Customer service offices;
5 4. Entertainment uses;
6 5. Museums, and administrative offices within a museum expansion space

7 meeting the requirement of subsection 23.49.011 B1h;

- 8 6. Libraries; and
9 7. Public atriums.

10 B. General Standards.

11 1. A minimum of seventy-five (75) percent of each street frontage at street-level
12 where street level uses are required must be occupied by uses listed in subsection A. The
13 remaining twenty-five (25) percent of the street frontage at street level may contain other
14 permitted uses and/or pedestrian or vehicular entrances. The frontage of any exterior public open
15 space that qualifies for a floor area bonus, whether it receives a bonus or not, any eligible lot area
16 of an open space TDR site, any outdoor common recreation area required for residential uses, or
17 any open space required for office uses, is not counted in street frontage.

18 2. In the DRC zone, a combined total of no more than twenty (20) percent of the
19 total street frontage of the lot may be occupied by human service uses, childcare facilities,
20 customer service offices, entertainment uses or museums.

21 3. Required street-level uses shall be located within ten (10) feet of the street
22 property line or shall abut a public open space that meets the eligibility criteria of the Downtown
23

1 Amenity Standards. When sidewalk widening is required by Section 23.49.022, the ten (10) feet
2 shall be measured from the line established by the new sidewalk width.

3 4. Except for child care facilities, pedestrian access to required street-level uses
4 shall be provided directly from the street, a bonused public open space, or other publicly
5 accessible open space. Pedestrian entrances shall be located no more than three (3) feet above or
6 below sidewalk grade or shall be at the same elevation as the abutting public open space.

7
8 Section 11. Section 23.49.010 of the Seattle Municipal Code, which Section was enacted
9 by Ordinance 112303, is hereby repealed.

10 Section 12. Subsection 23.49.026 of the Seattle Municipal Code, which Section was last
11 amended by Ordinance 121196, is renumbered to Section 23.49.010, and subsection B is
12 amended to read as follows:

13 **23.49.010 General requirements for residential use.**

14 * * *

15 B. Common Recreation Area. Common recreation area is required ~~((in))~~ for all new
16 ~~((structures containing))~~ development with more than twenty (20) dwelling units. Required
17 common recreation area shall meet the following standards:

18 1. An area equivalent to five (5) percent of the total gross floor area in residential
19 use, excluding ~~((an amount of floor area equal to any credit floor area obtained as part of the~~
20 ~~TDC Program, SMC Section 23.49.041))~~ any floor area in residential use gained in a project
21 through a voluntary agreement for housing under SMC Section 23.49.015, shall be provided as
22 common recreation area. In no instance shall the amount of required common recreation area

1 exceed the area of the lot. The common recreation area shall be available to all residents and
2 may be provided at or above ground level.

3 2. A maximum of fifty (50) percent of the common recreation area may be
4 enclosed.

5 3. The minimum horizontal dimension for required common recreation areas shall
6 be fifteen (15) feet, ~~((and))~~ except for open space provided as landscaped setback area at street
7 level, which shall have a minimum horizontal dimension of ten (10) feet. ~~((#))~~ No required
8 common recreation area shall be less than two hundred twenty-five (225) square feet.

9 4. Common recreation area that is provided as open space at street level shall be
10 counted as twice the actual area in determining the amount provided to meet the common
11 recreation area requirement.

12 5. In mixed use projects, the Director may permit a bonused public open space to
13 satisfy a portion of the common recreation area requirement, provided that the space meets the
14 standards of this section, and the Director finds that its design, location, access and hours of
15 operation meet the needs of building residents.

16 ~~((4))~~ 6. Parking areas, driveways and pedestrian access, except for pedestrian
17 access meeting the Washington State Rules and Regulations for Barrier Free Design, shall not be
18 counted as common recreation area.

19 ~~((5))~~ 7. In PSM zones, the Director of the Department of Neighborhoods, on
20 recommendation of the Pioneer Square Preservation Board, may waive the requirement for
21 common recreation area, pursuant to the criteria of Section 23.66.155, Waiver of common
22 recreation area requirements.

1 ((6))8. In IDM and IDR zones, the Director of the Department of Neighborhoods,
2 on recommendation of the International District Special Review District Board, may waive the
3 requirement for common recreation area, pursuant to the criteria of Section 23.66.155, Waiver of
4 common recreation area requirements.

5 ((7))9. For lots abutting designated green streets (~~((or located anywhere within the~~
6 ~~Denny Triangle Urban Village))~~), up to fifty (50) percent of the common recreation area
7 requirement may be met ~~((through participation in))~~ by contributing to the development of a
8 green street. The Director may waive the requirement that the green street about the lot and allow
9 the improvement to be made to a green street located in the general vicinity of the project if such
10 an improvement is determined to be beneficial to the residents of the project.

11 ~~((8. For projects as described in subsections B8a and B8b below that participate in~~
12 ~~the TDC Program pursuant to SMC 23.49.041, the total amount of required common recreation~~
13 ~~area shall not exceed:~~

14 a. Fifty (50) percent of the lot area, for development with only residential
15 use; or

16 b. Thirty-five (35) percent of the lot area, for mixed-use development with
17 at least twenty (20) residential or live-work units and eighty-five thousand (85,000) square feet
18 of nonresidential floor area, excluding area used for parking.))

19 * * *

20 Section 13. Section 23.49.011 of the Seattle Municipal Code, which Section was last
21 amended by Ordinance 121874, is amended as follows:

22 **23.49.011 Floor area ratio.**

23 A. General Standards.

1. The base and maximum floor area ratio (FAR) for each zone is provided in Chart 23.49.011 A1.

Chart 23.49.011 A1 Base and Maximum Floor Area Ratios (FARs)		
Zone Designation	Base FAR((1))	Maximum FAR((2))
Downtown Office Core 1 (DOC1)	6	20 ((14))
Downtown Office Core 2 ((DOC 2)) (DOC2)	5	14 ((10))
Downtown Retail Core (DRC)	3	5
Downtown Mixed Commercial (DMC)	4 in 65' height district 4.5 in 85' height district <u>5 in ((height districts above 85'- 125', 160', 240'/290' - 400' and 340'/290' -400' height districts</u>	4 in 65' height district 4.5 in 85' height district <u>7 in ((height districts above 85'- 125', 160', and 240'/290' - 400' height districts</u> <u>10 in 340'/290' - 400' height districts</u>
Downtown Mixed Residential/Residential (DMR/R)	1 in 85'/65' height district 1 in 125'/65' height district 1 in 240'/65' height district	1 in 85'/65' height district 2 in 125'/65' height district 2 in 240'/65' height district
Downtown Mixed Residential/Commercial (DMR/C)	1 in 85'/65' height district 1 in 125'/65' height district 2 in 240'/125' height district	4 in 85'/65' height district 4 in 125'/65' height district 5 in 240'/125' height district
Pioneer Square Mixed (PSM)	N.A.	N.A.
International District Mixed (IDM)	3, except hotels 6 for hotels	3, except hotels 6 for hotels
International District Residential (IDR)((2))	1	2 when 50% or more of the total gross floor area on the lot is in residential use((-))
Downtown Harborfront 1 (DH1)	N.A.	N.A.
Downtown Harborfront 2 (DH2)	2.5	Development standards regulate maximum FAR.
Pike Market Mixed (PMM)	7	7

((~~*Provisions for how to gain floor area above the base FAR are found in subsection 2 of this section and in Sections 23.49.012, 23.49.013 and 23.49.014.~~))N.A. = Not Applicable.

2. Chargeable floor area shall not exceed the applicable base FAR except as expressly authorized pursuant to the provisions of this chapter.

a. ((~~In DOC1 and DOC2 zones the first one (1) FAR above the base FAR may be gained, at the applicant's option, by any combination of the following: providing one of the amenity features listed in Section 23.49.013, subject to the limits and conditions in that~~

~~section; providing short-term parking meeting the basic standards in the Public Benefit Features Rule, where such parking is eligible pursuant to Map 1N; providing retail sales and service or entertainment uses as street-level uses meeting the requirements of Section 23.49.025, where such uses are eligible as indicated on Map 1N; or using development rights transferred from an open space TDR site or Landmark TDR site pursuant to Section 23.49.014. An applicant using the option allowed under this subsection A2a may achieve additional chargeable floor area consistent with subsections A2d through A2g of this section.))~~ For new structures in DOC1, DOC2 and DMC zones allowing chargeable floor area above the base FAR, the first increment of chargeable floor area above the base FAR, shown for each zone on Chart 23.49.011 A.2, shall be gained by making a commitment satisfactory to the Director that the proposed development will earn a LEED Silver rating or a meet a substantially equivalent standard approved by the Director as a Type I decision. In these zones, no chargeable floor area above the base FAR is allowed for a project that includes chargeable floor area in a new structure unless the applicant makes such a commitment. When such a commitment is made, the provisions of SMC Section 23.49.020 shall apply. The Director may establish by rule procedures for determining whether an applicant has demonstrated that a new structure has earned a LEED Silver rating or met any such substantially equivalent standard, provided that no rule shall assign authority for making a final determination to any person other than an officer of the Department of Planning and Development or another City agency with regulatory authority and expertise in green building practices.

Chart 23.49.011 A.2	
<u>ZONE</u>	<u>First increment of FAR above the base FAR achieved through LEED Silver Rating</u>
<u>DOC1</u>	<u>1.0</u>
<u>DOC2</u>	<u>0.75</u>
<u>DMC 340/290-400</u>	<u>0.50</u>
<u>DMC 125, 160, 240/290-400</u>	<u>0.25</u>

b. ~~((In the DMC zone chargeable floor area above the base FAR may be achieved, at the applicant's option, by qualifying for bonuses pursuant to Section 23.49.126, Downtown Mixed Commercial, ratios for public benefit features. Such option may be exercised only by election in writing by the applicant as part of the original application for a Master Use Permit, or within sixty (60) days of the effective date of Ordinance 120443, for the project that will use such bonus. An applicant making such election shall not be granted bonus floor area for the lot pursuant to Sections 23.49.012 or 23.49.013, but may use TDR consistent with Section 23.49.014. An applicant making such election thereby also elects to have the optional exemptions under subsection B3 of this section, and not those in subsection B1, apply in determining chargeable floor area.))~~In DOC1, DOC2, and DMC zones, additional chargeable floor area above the first increment of FAR that exceeds the base FAR may be obtained only by qualifying for floor area bonuses pursuant to Section 23.49.012 or 23.49.013, or by the transfer of development rights pursuant to Section 23.49.014, or both, except as provided in subsections A2c through A2i of this section.

~~((c. On lots zoned DOC1 and DMC chargeable floor area above the base FAR may be achieved by using within block TDR pursuant to Section 23.49.014, Transfer of~~

development rights (TDR), and by meeting the requirements of subsections A2d through A2g of this section.))

((d. Except as provided in subsection A2a, A2b, and A2c of this section, additional chargeable floor area above the base FAR may be achieved only by qualifying for bonuses pursuant to Sections 23.49.012 or 23.49.013, or by the transfer of development rights pursuant to Sections 23.49.014, or both, subject to the limits of this chapter and to any other applicable conditions and limitations.))

((e))c. In the DOC1 zone, additional chargeable floor area over seventeen (17) FAR may be obtained only through the transfer of rural development credits, except as provided below in this subsection c. No chargeable floor area shall be allowed under this subsection unless, at the time of the Master Use Permit application for the project proposing such floor area, an agreement is in effect between the City and King County, duly authorized by City ordinance, for the implementation of a Rural Development Credits Program. If no such agreement is in effect, the chargeable floor area above the seventeenth FAR may be obtained according to the provisions of Section 23.49.011A2f.

((e))d. In no event shall the use of bonuses, ((e))TDR, or rural development credits, or any combination of them, be allowed to result in chargeable floor area in excess of the maximum as set forth in Chart 23.49.011A1, except that a structure on a lot ((zoned both DOC1 and DMC may exceed the floor area ratio permitted in either zone, provided the chargeable floor area on the lot as a whole does not exceed the combined total permitted chargeable floor area.)) in a planned community development pursuant to Section 23.49.036 or a combined lot development pursuant to Section 23.49.041, may exceed the floor area ratio otherwise permitted on that lot, provided the chargeable floor area on all lots included in the

1 planned community development or combined lot development as a whole does not exceed the
2 combined total permitted chargeable floor area.

3 ~~((f))~~e. Except as otherwise provided in this subsection A2~~((f))e~~ or
4 subsections A2g or A2i of this section, not less than five (5) percent of all floor area above the
5 base FAR to be gained on any lot, excluding any floor area gained under subsection A2a ~~((or~~
6 ~~A2e))~~of this Section, shall be gained through the transfer of Landmark TDR, to the extent that
7 Landmark TDR is available. Landmark TDR shall be considered "available" only to the extent
8 that, at the time of the Master Use Permit application to gain the additional floor area, the City of
9 Seattle is offering Landmark TDR for sale, at a price per square foot no greater than the total
10 bonus contribution under Section 23.49.012 for a project using the cash option for both housing
11 and childcare facilities. An applicant may satisfy the minimum Landmark TDR requirement in
12 this section by purchases from private parties, by transfer from an eligible sending lot owned by
13 the applicant, by purchase from the City, or by any combination of the foregoing. This
14 subsection A2~~e~~~~((f))~~ does not apply to any lot in a DMR zone, ~~((, or to any lot in a DMC zone for~~
15 ~~which an election has been made under subsection A2b of this section.))~~

16 ~~((g))~~f. Except as otherwise permitted under subsection A2h or A2i of this
17 section, ~~((Θ))~~on any lot except a lot in a DMR zone ~~((or a DMC zone for which an election has~~
18 ~~been made under subsection A2b of this section))~~, the total amount of chargeable floor area
19 gained through bonuses under Section 23.49.012, together with any housing TDR and Landmark
20 housing TDR used for the same project, shall equal seventy-five (75) percent of the amount, if
21 any, by which the total chargeable floor area to be permitted on the lot exceeds the sum of (i) the
22 base FAR, as determined under this section and Section 23.49.032 if applicable, plus (ii) any
23 chargeable floor area gained on the lot pursuant to subsection A2a, ~~((Θ))~~A2c, A2h, or A2i of this

1 section. At least half of the remaining twenty-five (25) percent shall be gained by using TDR
2 from a sending lot with a major performing arts facility, to the extent available. The balance of
3 such 25 percent shall be gained through bonuses under Section 23.49.013 or through TDR other
4 than housing TDR, or both, consistent with this chapter. TDR from a sending lot with a major
5 performing arts facility shall be considered "available" only to the extent that, at the time of the
6 Master Use Permit application to gain the additional floor area, the City of Seattle is offering
7 such TDR for sale, at a price per square foot not exceeding the prevailing market price for TDR
8 other than housing TDR, as determined by the Director.

9 ((h))g. In order to gain chargeable floor area on any lot in a DMR zone, an
10 applicant may (i) use any types of TDR eligible under this chapter in any proportions, or (ii) use
11 bonuses under Section 23.49.012 or 23.49.013, or both, subject to the limits for particular types
12 of bonus under Section 23.49.013, or (iii) combine such TDR and bonuses in any proportions.

13 h. On any lot in a DMC zone allowing a maximum FAR of seven (7), in
14 addition to the provisions of subsection 2f above, an applicant may gain chargeable floor area
15 above the first increment of FAR above the base FAR through use of DMC housing TDR, or any
16 combination of DMC housing TDR with floor area gained through other TDR and bonuses as
17 prescribed in subsection 2f.

18 ~~((i. Bonuses for street level uses may be allowed only pursuant to~~
19 ~~subsection A2a or A2b of this section. Bonuses for short-term parking may be allowed only~~
20 ~~pursuant to subsection A2a of this section. The bonus ratio for street level uses is three square~~
21 ~~feet of floor area granted per one square foot (3:1) of bonus feature. The bonus ratio for short-~~
22 ~~term parking is one (1) square foot of floor area granted per one (1) square foot (1:1) of bonus~~
23 ~~feature up to a maximum of two hundred (200) parking spaces for above grade parking and is~~

~~two (2) square feet of floor area granted per one (1) square foot (2:1) of bonus feature for below grade parking up to a maximum of two hundred (200) parking spaces. Ratios and limits for the other features for which a bonus may be granted under subsection A2a are in Section 23.49.013.))~~

i. When the amount of bonus development sought in any permit application does not exceed five thousand (5,000) square feet of chargeable floor area, the Director may permit such floor area to be achieved solely through the bonus for housing and child care.

j. Subsection A2a of this section shall expire five (5) years from the effective date of this ordinance, and thereafter that first increment of floor area above the base FAR shall be zero (0).

k. No chargeable floor area above the base FAR shall be granted to any proposed development that would result in significant alteration to any designated feature of a Landmark structure, unless a Certificate of Approval for the alteration is granted by the Landmarks Preservation Board.

3. The Master Use Permit application to establish any bonus development under this section shall include a calculation of the amount of bonus development sought and shall identify the manner in which the conditions to such bonus development shall be satisfied. The Director shall, at the time of issuance of any Master Use Permit decision approving any such bonus development, issue a Type I decision as to the amount of bonus development to be allowed and the conditions to such bonus development, which decision may include alternative means to achieve bonus development, at the applicant's option, if each alternative would be

1 consistent with the conditions of any other conditions of the permit, including Design Review if
2 applicable.

3 B. Exemptions and Deductions from FAR Calculations.

4 1. The following are not included in chargeable floor area, except as specified
5 below in this section:

6 a. Retail sales and service uses and entertainment uses in the DRC zone,
7 up to a maximum FAR of two (2) for all such uses combined;

8 b. Street-level uses meeting the requirements of Section ~~((23.49.025))~~
9 23.49.009, Street-level use requirements, whether or not street-level use is required pursuant to
10 Map 1~~((H))~~G, if the uses and structure also satisfy the following standards:

11 (1) The street level of the structure containing the exempt space
12 must have a minimum floor to floor height of thirteen (13) feet;

13 (2) The street level of the structure containing the exempt space
14 must have a minimum depth of fifteen (15) feet;

15 (3) Overhead weather protection is provided satisfying the
16 provisions of ~~((23.49.025B5))~~ Section 23.49.018.

17 c. ~~((In the DRC zone, shopping corridors and retail atriums))~~ Shopping
18 atria in the DRC zone and adjacent areas shown on Map 1J, provided that:

19 (1) The minimum area of the shopping atria shall be four thousand
20 (4,000) square feet;

21 (2) The eligibility conditions of the Downtown Amenity Standards
22 are met; and

(3) The maximum area eligible for a floor area exemption shall be twenty thousand (20,000) square feet;

d. Child care;

e. Human service use;

f. Residential use, except in the PMM and DH2 zones;

g. Live-work units, except in the PMM and DH2 zones;

h. Museums, provided that the eligibility conditions of the Downtown Amenity Standards are met;

i. ~~((and t))~~ The floor area identified as expansion space for ~~((the))~~ a museum, where such expansion space satisfies the following:

(1.) The floor area that will contain the museum expansion space is owned by the museum or a museum development authority; and

(2.) The museum expansion space will be occupied by a museum, existing as of October 31, 2002 on a downtown zoned lot; and

(3.) The museum expansion space is physically designed in conformance with the Seattle Building Code standards for museum use either at the time of original configuration or at such time as museum expansion is proposed~~((r))~~;

~~((i))~~ j. Performing arts theaters;

~~((j))~~ k. Floor area below grade;

~~((k))~~ l. Floor area that is used only for short-term parking or parking accessory to residential uses, or both, subject to a limit on floor area used wholly or in part as parking accessory to residential uses of one (1) parking space for each dwelling unit on the lot with the residential use served by the parking;

1 ~~((f-))~~ m. Floor area of a public benefit feature that would be eligible for a
2 bonus on the lot where the feature is located. The exemption applies regardless of whether a
3 floor area bonus is obtained, and regardless of maximum bonusable area limitations; ~~((and))~~

4 ~~((m-))~~ n. Public restrooms((-));

5 o. Major retail stores in the DRC zone and adjacent areas shown on Map
6 1J, provided that:

7 (1) The minimum lot area for a major retail store development
8 shall be twenty thousand (20,000) square feet;

9 (2) The minimum area of the major retail store shall be eighty
10 thousand (80,000) square feet;

11 (3) The eligibility conditions of the Downtown Amenity Standards
12 are met;

13 (4) The maximum area eligible for a floor area exemption shall be
14 two hundred thousand (200,000) square feet;

15 (5) The floor area exemption applies to storage areas, store offices,
16 and other support spaces necessary for the store's operation; and

17 ~~((n. All gross floor area of a monorail station, including all floor area open~~
18 ~~to the general public during normal hours of station operation (but excluding retail or service~~
19 ~~establishments to which public access is limited to customers or clients, even where such~~
20 ~~establishments are primarily intended to serve monorail riders).))~~

21 p. Shower facilities for bicycle commuters.

22 2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent
23 ~~((of the gross floor area of a structure))~~ shall be deducted in computing chargeable gross floor

1 area. The allowance shall be calculated on the gross floor area after all exempt space permitted
2 under subsection B1(~~(, or B3 if applicable,)~~) has been deducted. Mechanical equipment located
3 on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross
4 floor area of the structure, except that for structures existing prior to June 1, 1989, new or
5 replacement mechanical equipment may be placed on the roof and will not be counted in gross
6 floor area calculations.

7 ~~((3. In lieu of the exemptions allowed in subsection B1 of this section, an~~
8 ~~applicant may elect in writing, at the time of filing of an original master use permit application~~
9 ~~that involves the proposed addition or change of use of floor area on any lot wholly within a~~
10 ~~DMC zone on which no bonus floor area has been or is proposed to be gained under Section~~
11 ~~23.49.012 or Section 23.49.013, that the following areas on such lot shall be exempt from base~~
12 ~~and maximum FAR calculations:~~

13 ~~a. All gross floor area in residential use, except on lots from which~~
14 ~~development rights have been or are transferred;~~

15 ~~b. All gross floor area below grade;~~

16 ~~c. All gross floor area used for accessory parking;~~

17 ~~d. The gross floor area of public benefit features, other than housing, that~~
18 ~~satisfy the requirements of Section 23.49.126, ratios for public benefit features, or that satisfy the~~
19 ~~requirements for a FAR bonus amenity allowable to a structure in a DOC1 or DOC2 zone for an~~
20 ~~off site public benefit feature, and, in either case, satisfy the Public Benefit Features Rule,~~
21 ~~whether granted a floor area bonus or not, regardless of the maximum bonusable area~~
22 ~~limitation.))~~

Section 14. Section 23.49.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.012 Bonus floor area for voluntary agreements for housing and child care.

A. General Provisions

1. The purpose of this section is to ~~((allow chargeable floor area above the base FAR when the applicant by voluntary agreement provides, funds or partially funds public benefit features or capital projects that mitigate a portion of the impacts of higher density development))~~ encourage development in addition to that authorized by basic zoning regulations (“bonus development”), provided that certain adverse impacts from the bonus development are mitigated. ~~((The City has determined that a major impact of such development is the increased need for low income and low moderate income affordable housing downtown to serve workers in lower paid jobs and their families attracted by the development. The general intent of this section is that voluntary agreements for bonus floor area shall mitigate impacts, with primary emphasis on housing.))~~ Two impacts from such development are an increased need for low-income housing downtown to house the families of workers having lower-paid jobs and an increased need for child care for downtown workers.

2. If an applicant elects to seek approval of bonus development pursuant to this section, the applicant must execute a voluntary agreement with the City in which the applicant agrees to provide mitigation for such impacts. The mitigation may be provided by building the requisite low-income housing or child care facilities (the “performance option”), by making a contribution to be used by the City to build or provide the housing and child care facilities (the “payment option”), or by a combination of the performance and payment options.

1 ~~((2. There shall be a voluntary agreement between the applicant and the City with~~
2 ~~respect to all floor area earned pursuant to this section. The agreement commits the applicant to~~
3 ~~provide eligible bonus features ("performance option"), or to make payments to the City to fund~~
4 ~~such features ("cash option"), or a combination of both the cash option and the performance~~
5 ~~option, in amounts sufficient to qualify for the amount of floor area desired.))~~

6 ~~((3. No floor area beyond the base FAR shall be granted for any project that~~
7 ~~would cause significant alteration to any designated feature of a Landmark structure, unless a~~
8 ~~Certificate of Approval is granted by the Landmarks Preservation Board.))~~

9 B. Voluntary Agreements for Housing and Child Care. For each square foot of
10 chargeable floor area above the base FAR to be earned under this section, the voluntary
11 agreement shall commit the developer to provide or contribute to the following facilities in the
12 following amounts:

13 1. Housing.

14 a. For each square foot of bonus floor area, housing serving each of the
15 specified income levels, or an alternative cash contribution for housing to serve each specified
16 income level, must be provided according to Chart 23.49.012 A.

17 b. For purposes of this subsection, a housing unit serves households up to
18 an income level only if all of the following are satisfied for a period of fifty (50) years beginning
19 upon the issuance of a final certificate of ~~((acceptance))~~ occupancy by the ~~((Director of the~~
20 ~~Office of Housing))~~ Department of Planning and Development ~~((in accordance with subsection~~
21 ~~23.49.012 B4i))~~ :

(1) The housing unit is used as rental housing solely for households with incomes, at the time of each household's initial occupancy, not exceeding that level; and

(2) The monthly rent charged for the housing unit, together with a reasonable allowance for any basic utilities that are not included in the rent, does not exceed one-twelfth of thirty (30) percent of that income level as adjusted for the estimated size of household corresponding to the size of unit, in such manner as the Director of the Office of Housing shall determine;

(3) There are no charges for occupancy other than rent; and

(4) The housing unit and the structure in which it is located are maintained in decent and habitable condition, including adequate basic appliances, for such fifty (50) year period.

c. For purposes of this section, housing may be considered to be provided by the applicant seeking bonus floor area if it is committed to serve one or more of the income groups referred to in this section pursuant to an agreement between the housing owner and the City executed and recorded prior to the issuance of the building permit for the construction of such housing or conversion of nonresidential space to such housing, but no earlier than three (3) years prior to the issuance of a master use permit for the project using the bonus floor area, and either:

(1) The housing unit is newly constructed, is converted from nonresidential use, or is renovated space that was vacant as of the date of this ordinance, on the lot using the bonus floor area, pursuant to the same master use permit as the project using the bonus floor area; or

(2) The housing is newly constructed, is converted from nonresidential use, or is renovated in a residential building that was vacant as of the date of this ordinance on a lot in a Downtown zone (~~((in compliance with the Public Benefit Features Rule))~~), and:

i. The housing is owned by the applicant seeking to use the bonus;

or

ii. The owner of the housing has signed, and there is in effect, a linkage agreement approved by the Director of the Office of Housing allowing the use of the housing bonus in return for necessary and adequate financial support to the development of the housing, and either the applicant has, by the terms of the linkage agreement, the exclusive privilege to use the housing to satisfy conditions for bonus floor area; or the applicant is the assignee of the privilege to use the housing to satisfy conditions for bonus floor area, pursuant to a full and exclusive assignment, approved by the Director of the Office of Housing, of the linkage agreement, and all provisions of this section respecting assignments are complied with. If housing is developed in advance of a linkage agreement, payments by the applicant used to retire or reduce interim financing may be considered necessary and adequate support for the development of the housing.

d. Housing that is not yet constructed, or is not ready for occupancy, at the time of the issuance of a building permit for the project intending to use bonus floor area, may be considered to be provided by the applicant if, within three (3) years of the issuance of the first building permit for such project, the (~~((Director of the Office of Housing))~~) Department of Planning and Development issues a final certificate of (~~((acceptance))~~) occupancy for such housing. Any applicant seeking to qualify for bonus floor area based on such housing shall

1 provide to the City, prior to the date when a contribution would be due for the cash option under
2 subsection C of this section, an irrevocable bank letter of credit or other sufficient security
3 approved by the Director of the Office of Housing, and a related voluntary agreement, so that at
4 the end of the three (3) year period, if the housing does not qualify or is not provided in a
5 sufficient amount to satisfy the terms of this section, the City shall receive (i) a cash contribution
6 for housing in the amount determined pursuant to this section after credit for any qualifying
7 housing then provided, plus (ii) an amount equal to interest on such contribution, at the rate equal
8 to the prime rate quoted from time to time by Bank of America, or its successor, plus three (3)
9 percent per annum, from the date of issuance of the first building permit for the project using the
10 bonus. If and when the City becomes entitled to realize on any such security, the Director of the
11 Office of Housing shall take appropriate steps to do so, and the amounts realized, net of any
12 costs to the City, shall be used in the same manner as cash contributions for housing made under
13 this section. In the case of any project proposing to use bonus floor area for which no building
14 permit is required, references to the building permit in this subsection shall mean the master use
15 permit allowing establishment or expansion of the use for which bonus floor area is sought.

16 ~~((e. Only the party named in the linkage agreement with the owner of the~~
17 ~~housing as having the privilege to use the housing to satisfy bonus conditions may assign that~~
18 ~~privilege, and any assignment must be absolute and irrevocable. No assignment by an assignee,~~
19 ~~whether to a new party or back to the assignor or housing owner, is permitted. The Director of~~
20 ~~the Office of Housing may require, as conditions to recognizing any assignment, that:~~

21 ~~(1) The applicant obtain a written acknowledgment from the owner~~
22 ~~of the housing that the linkage agreement, as so assigned, is valid and effective;~~

~~(2) The assignor execute any documents deemed necessary by the Director of the Office of Housing to ensure that no party other than the permitted assignee has used, or will have any claim to use, the same housing to qualify for any floor area or development potential of any kind under any ordinance or other provision of law; and~~

~~(3) The owner and such assignor agree to indemnify and hold harmless the City and its officers and employees from any claims of the type described in subsection ii above and any damages from the City's refusal to honor such claims.))~~

e.((f.)) Nothing in this chapter shall be construed to confer on any owner or developer of housing, any party to a linkage agreement, or any assignee, any development rights or property interests. Because the availability and terms of allowance of bonus floor area depend upon the regulations in effect at the relevant time for the project proposing to use such bonus floor area, pursuant to SMC Section 23.76.026, any approvals or agreements by the Director of the Office of Housing regarding the eligibility of actual or proposed housing as to satisfy conditions of a bonus, and any approval of a linkage agreement and/or assignment, do not grant any vested rights, nor guarantee that any bonus floor area will be permitted based on such housing.

f.((g-)) The Director of the Office of Housing shall review the design and proposed management plan for any housing proposed under the performance option to determine whether it will comply with the terms of this section.

g. ~~((h.))~~ The Director of the Office of Housing is authorized to accept a voluntary agreement for the provision of housing and related agreements and instruments consistent with this section. ~~((The Director of the Office of Housing is further authorized to issue a certificate of acceptance with respect to any housing units developed to satisfy the conditions~~

1 ~~of this rule when: the construction or rehabilitation of such housing units and the structure in~~
2 ~~which they are located has been completed; any necessary certificate of occupancy or final~~
3 ~~permit approval has been issued for the housing units; and either are rented consistent with this~~
4 ~~section or are vacant, ready for occupancy and offered for rent consistent with this section; and~~
5 ~~the owner of the housing provides such evidence of compliance with the requirements of this~~
6 ~~section and the Public Benefit Features Rule as the Director of the Office of Housing may~~
7 ~~require.))~~

8 h.((i.)) Any provision of any Director's rule notwithstanding, it shall be a
9 continuing permit condition, whether or not expressly stated, for each project obtaining bonus
10 floor area based on the provision of housing under this subsection, that the housing units shall
11 continue to satisfy the requirements of this subsection throughout the required fifty (50) year
12 period and that such compliance shall be documented annually to the satisfaction of the Director
13 of the Office of Housing, and the owner of any project using such bonus floor area shall be in
14 violation of this title if any such housing unit does not satisfy such requirements, or if
15 satisfactory documentation is not provided to the Director of the Office of Housing, at any time
16 during such period. The Director of the Office of Housing may provide by rule for circumstances
17 in which housing units maybe replaced if lost due to casualty or other causes, and for terms and
18 conditions upon which a cash contribution may be made in lieu of continuing to provide housing
19 units under the terms of this subsection.

20 ~~((j. Housing units that are provided to qualify for a bonus shall be~~
21 ~~generally comparable in their average size and quality of construction to other housing units in~~
22 ~~the same structure, in the judgment of the Housing Director.))~~

23 **Chart 23.49.012 A**

Income Level	Gross Square Feet of Housing	Cash Contribution*
Up to 30% of median income	0.01905335	\$ 3.20
Up to 50% of median income	0.06058827	9.28
Up to 80% of median income	0.07614345	6.27
Total	0.15578507	18.75

* The Director of the Office of Housing may adjust the alternative cash contribution, no more frequently than annually, approximately in proportion to the change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982 – 84=100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that such Director may deem appropriate. The base year for the first such adjustment shall be 2001. In the alternative, the Director of the Office of Housing may adjust the cash contribution amounts based, on changes to commercial and/or housing development costs estimated in such manner as the Director deems appropriate. Any such adjustment to the cash contribution amounts may be implemented through a rule-making process.

~~j.((k-))~~ Housing units provided to qualify for a bonus, or produced with voluntary contributions made under this section, should include ~~((comprise))~~ a range of unit sizes, including units suitable for families with children. The Housing Director is authorized to prescribe by rule minimum requirements for the range of unit sizes, by numbers of bedrooms, in housing provided to qualify for a bonus. The Housing Director shall take into account, in any such rule, estimated distributions of household sizes among low-income ~~((and low moderate income))~~ households. The Housing Director is further authorized to adopt policies for distribution of unit sizes in housing ~~((projects))~~ developments funded by contributions received under this section.

2. Child Care.

a. For each square foot of bonus floor area allowed under this section, in addition to providing housing or an alternative cash contribution pursuant to subsection B1, the applicant shall provide fully improved child care facility space sufficient for 0.000127 of a child care slot, or a cash contribution to the City of Three Dollars and Twenty-five Cents (\$3.25), to be administered by the Human Services Department. The Director of the Human Services

1 Department may adjust the alternative cash contribution, no more frequently than annually,
2 approximately in proportion to the change in the Consumer Price Index, All Urban Consumers,
3 Seattle-Tacoma metropolitan area, All Items (1982-84 = 100), as determined by the U.S.
4 Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that
5 such Director may deem appropriate. The base year for the first such adjustment shall be 2001.
6 The minimum interior space in the child care facility for each child care slot ~~((is one hundred~~
7 ~~(100) net rentable square feet.))~~ shall comply with all applicable state and local regulations
8 governing the operation of licensed childcare providers. Child care facility space shall be deemed
9 provided only if the applicant causes the space to be newly constructed or newly placed in child
10 care use after the submission of a permit application for the project intended to use the bonus
11 floor area, except as provided in subsection B2b(6). If any contribution or subsidy in any form is
12 made by any public entity to the acquisition, development, financing or improvement of any
13 child care facility, then any portion of the space in such facility determined by the Director of the
14 Human Services Department to be attributable to such contribution or subsidy shall not be
15 considered as provided by any applicant other than that public entity.

16 b. Child care space shall be provided on the same lot as the project using
17 the bonus floor area or on another lot in a downtown zone and shall be contained in a child care
18 facility satisfying the following standards:

19 (1) The child care facility and accessory exterior space must be
20 approved for licensing by the State of Washington Department of Social and Health Services and
21 any other applicable state or local governmental agencies responsible for the regulation of
22 licensed childcare providers.

(2) At least twenty (20) percent of the number of child care slots for which space is provided as a condition of bonus floor area must be reserved for, and affordable to, families with annual incomes at or below the ~~((federal))~~ U.S. Department of Housing and Urban Development Low Income Standard for Section 8 Housing based on family size (or, if such standard shall no longer be published, a standard established by the Human Services Director based generally on eighty (80) percent of the median family income of the Metropolitan Statistical Area, or division thereof, that includes Seattle, adjusted for family size). Child care slots shall be deemed to meet these conditions if they serve, and are limited to, (a) children receiving child care subsidy from the City of Seattle, King County or State Department of Social and Health Services, and/or (b) children whose families have annual incomes no higher than the above standard ~~((that))~~ who are charged according to a sliding fee scale such that the fees paid by any family do not exceed the amount it would be charged, exclusive of subsidy, if the family were enrolled in the City of Seattle Child Care Subsidy Program.

(3) Child care space provided to satisfy bonus conditions shall be dedicated to child care use, consistent with the terms of this section, for twenty years. The dedication shall be established by a recorded covenant, running with the land, and enforceable by the City, signed by the owner of the lot where the child care facility is located and by the owner of the lot where the bonus floor area is used, if different from the lot of the child care facility. The child care facility shall be maintained in operation, with adequate staffing, at least eleven (11) hours per day, five (5) days per week, ~~((forty-eight (48)))~~ fifty (50) weeks per year.

(4) ~~((The minimum area of the child care facility shall be six thousand (6,000) square feet of net rentable floor area plus two thousand (2,000) square feet of exterior space suitable as recreation area accessory to the interior child care space and dedicated~~

1 ~~to such use during daytime hours on all days when the child care facility is in operation or is~~
2 ~~required to be open.)) Exterior space for which a bonus is or has been allowed under any other~~
3 ~~section of this title or under former Title 24 shall not be eligible to satisfy the conditions of this~~
4 ~~section. ((The Director of the Human Services Department may approve exceptions to the~~
5 ~~minimum space requirement based on review of the management plan and an assessment of the~~
6 ~~economic feasibility of operating a smaller child care facility.))~~

7 (5) Unless the applicant is the owner of the child care space and is
8 a duly licensed and experienced child care provider approved by the Director of the Human
9 Services Department, the applicant shall provide to the Director a signed agreement, acceptable
10 to such Director, with a duly licensed child care provider, under which the child care provider
11 agrees to operate the child care facility consistent with the terms of this section and of the
12 recorded covenant, and to provide reports and documentation to the City to demonstrate such
13 compliance. ~~((The agreement shall have an initial term of no less than three (3) years and shall~~
14 ~~require both parties to notify the Director of the Human Services Department at least ninety (90)~~
15 ~~days in advance of the its expiration, if not renewed, or any termination.))~~

16 (6) One (1) child care facility may fulfill the conditions for a bonus
17 for more than one (1) project if it includes sufficient space, and provides sufficient slots
18 affordable to limited income families, to satisfy the conditions for each such project without any
19 space or child care slot being counted toward the conditions for more than one (1) project. If the
20 child care facility is located on the same lot as one of the projects using the bonus, then the
21 owner of that lot shall be responsible for maintaining compliance with all the requirements
22 applicable to the child care facility; otherwise responsibility for such requirements shall be
23 allocated by agreement in such manner as the Director of the Human Services Department may

1 approve. If a child care facility developed to qualify for bonus floor area by one applicant
2 includes space exceeding the amount necessary for the bonus floor area used by that applicant,
3 then to the extent that the voluntary agreement accepted by the Director of the Human Services
4 Department from that applicant so provides, such excess space may be deemed provided by the
5 applicant for a later project pursuant to a new voluntary agreement signed by both such
6 applicants and by any other owner of the child care facility, and a modification of the recorded
7 covenant, each in form and substance acceptable to such Director.

8 c. The Director of the Human Services Department shall review the design
9 and proposed management plan for any child care facility proposed to qualify for bonus floor
10 area to determine whether it will comply with the terms of this section. The allowance of bonus
11 floor area is conditioned upon approval of the design and proposed management plan by the
12 Director. The child care facility shall be constructed consistent with the design approved by such
13 Director and shall be operated for the minimum twenty (20) year term consistent with the
14 management plan approved by such Director, in each case with only such modifications as shall
15 be approved by such Director. If the proposed management plan includes provisions for payment
16 of rent or occupancy costs by the provider, the management plan must include a detailed
17 operating budget, staffing ratios, and other information requested by the Director to assess
18 whether the child care facility may be economically feasible and able to deliver quality services.

19 d. The Director of the Human Services Department is authorized to accept
20 a voluntary agreement for the provision of a child care facility to satisfy bonus conditions and
21 related agreements and instruments consistent with this section. The voluntary agreement may
22 provide, in case a child care facility is not maintained in continuous operation consistent with
23 this subsection B2 at any time within the minimum twenty (20) year period, for the City's right to

1 receive payment of a prorated amount of the alternative cash contribution that then would be
2 applicable to a new project seeking bonus floor area. Such Director may require security or
3 evidence of adequate financial responsibility, or both, as a condition to acceptance of an
4 agreement under this subsection.

5 * * *

6 Section 15. Section 23.49.013 of the Seattle Municipal Code, which Section was enacted
7 by Ordinance 120443, is amended to read as follows:

8 **23.49.013 Bonus floor area for amenities (y-features).**

9 A. An applicant may achieve a portion of the chargeable floor area to be ~~((built))~~
10 established in addition to ((over)) base FAR through bonuses for amenities, subject to the limits
11 in this chapter. Amenities for which bonuses may be allowed are limited to:

12 1. Public open space amenit~~((y))~~ies, including hillside terraces on sites shown as
13 eligible for bonuses on Map 1J, urban plazas in DOC1, DOC2 and DMC 340/290-400 zones,
14 parcel parks in DOC1, DOC2, DMC, and DMR zones, public atri~~((um))~~a in DOC1, DOC2, and
15 DMC 340/290-400 zones, green street improvements~~((;))~~ and green street setbacks on designated
16 green streets;

17 2. Hillclimb assists, or shopping corridors ~~((, or transit tunnel station access may~~
18 ~~be provided))~~ on sites shown as eligible for these respective bonuses on Map 1J~~((K))~~;

19 3. Human services uses as follows:

- 20 a. Information and referral for support services;
- 21 b. Health clinics;
- 22 c. Mental health counseling services;
- 23 d. Substance abuse prevention and treatment services;

1 e. Consumer credit counseling;

2 f. Day care services for adults;

3 g. Jobs skills training services((-));

4 4. Public restrooms((-));

5 5. For ((a)) projects in a DOC1, ((a)) DOC2, or DMC 340'/290-400' zone,

6 restoration and preservation of Landmark performing arts theaters((-)), provided that the

7 following conditions are met:

8 a. the theater contains space that was designed for use primarily as, or is
9 suitable for use as, a performing arts theater;

10 b. the theater is located in a DOC1, DOC2, DRC, or DMC zone;

11 c. the theater is a designated Landmark pursuant to Chapter 25.12;

12 d. the theater is subject to an ordinance establishing an incentive and
13 controls, or the owner of the theater executes, prior to the approval of a floor area bonus under
14 any agreement with respect to such theater, an incentives and controls agreement approved by
15 the City Landmarks Preservation Board;

16 e. the theater has, or will have upon completion of a proposed plan or
17 rehabilitation, a minimum floor area devoted to performing arts theater space and accessory uses
18 of at least twenty thousand (20,000) square feet; and

19 f. The theater will be available, for the duration of any commitment made
20 to qualify for a floor area bonus, for live theater performances no fewer than one hundred eighty
21 (180) days per year; and

22 6. Transit station access for fixed rail transit facilities.

23 B. Standards for Amenities((-Features)).

1 1. Location of Amenities ~~((y Features))~~. Amenities ~~((y Features))~~ ~~((must))~~ shall be
2 located on the lot using the bonus, except as follows:

3 a. Green street improvements may be located within an abutting right-of-
4 way subject to applicable Director's rules.

5 b. An open space amenity ~~((feature))~~, other than green street
6 improvements, may be on a lot other than the lot using the bonus, provided that it is within a
7 Downtown zone and all of the following conditions are satisfied:

8 (1) The open space must be open to the general public without
9 charge, must meet the ~~((standards))~~ eligibility conditions of the ~~((Public Benefit Features Rule))~~
10 Downtown Amenity Standards, and must be one of the open space features cited in subsection
11 A1 of this section.

12 (2) The open space must be within one-quarter (1/4) mile of the lot
13 using the bonus, except as may be permitted pursuant to subsection B1b(4).

14 (3) The open space must have a minimum contiguous area of five
15 thousand (5,000) square feet, except as may be permitted pursuant to subsection B1b(4).

16 (4) Departures from standards for the minimum size of off-site
17 open space and maximum distance from the project may be allowed by the Director as a Type I
18 decision if the Director determines that if such departures are approved, the proposed open space
19 will meet the additional need for open space caused by the project, and improve public access to
20 the open space compared to provision of the open space on-site.

21 ~~((4))~~(5) The owner of any lot on which off-site open space is
22 provided to meet the requirements of this section shall execute and record an easement or other
23 instrument in a form acceptable to the Director assuring compliance with the requirements of this

section, including applicable conditions of the (~~(Public Benefit Features Rule)~~) Downtown Amenity Standards.

c. Public restrooms shall be on a ground floor; shall satisfy all codes and accessibility standards; shall be open to the general public during hours that the structure is open to the public, although access may be monitored by a person located at the restroom facility; shall be maintained by the owner of the structure for the life of the structure that includes the bonused space; and shall be designated by signs sufficient so that they are readily located by pedestrians on an abutting street or public open space. The Director is authorized to establish standards for the design, construction, operation and maintenance of public restrooms qualifying for a bonus, consistent with the intent of this subsection to encourage the provision of accessible, clean, safe and environmentally sound facilities.

2. Options for Provision of Amenities (~~(y Features)~~).

a. Amenities (~~(y Features other than green street improvements)~~) must be provided by performance except as expressly permitted in this Section. The Director may accept a cash payment for green street improvements subject to the provisions of this section, the (~~(Public Benefit Features Rule)~~) Downtown Amenity Standards and the Green Street Director's Rule, DR 11-93, if the Director determines that improvement of a green street abutting or in the vicinity of the lot within a reasonable time is feasible. The cash payment must be in an amount sufficient to improve fully one (1) square foot of green street space for each five (5) square feet of bonus floor area allowed for such payment.

b. Restoration and preservation of a Landmark performing arts theater may consist of financial assistance provided by the applicant for rehabilitation work on a

Landmark performing arts theater, or for retirement of the cost of improvements made after February 5, 1993, if:

(1) The assistance is provided pursuant to a linkage agreement between the applicant and the owner of the Landmark performing arts theater satisfactory to the Director, in which such owner agrees to use such financial assistance to complete such rehabilitation and agrees that the applicant is entitled to all or a portion of the bonus floor area that may be allowed therefor;

(2) The owner of the Landmark performing arts theater executes and records covenants enforceable by the City, agreeing to maintain the structure and the performing arts theater use, consistent with the ~~((Public Benefits Features Rule))~~ Downtown Amenity Standards; and

(3) Prior to the issuance of any building permit after the first building permit for the project using the bonus, and in any event before any permit for any construction activity other than excavation and shoring is issued for that project, unless the rehabilitation work has then been completed, the applicant posts security for completion of that work, consistent with the ~~((Public Benefits Features Rule))~~ Downtown Amenity Standards.

3. Ratios and limits.

a. ~~((Public benefit features))~~ Amenities may be used to gain floor area according to the applicable ratios, and subject to the limits, in Section 23.49.011 and in ~~((this section))~~ Chart 23.49.013A.

~~((a. Bonuses for open space amenities smaller than five thousand (5,000) square feet each, including hillside terrace, urban plaza, parcel park, green street improvement, or public atrium, plus any bonuses for green street setbacks, shall not exceed in the aggregate one~~

~~(1) FAR or fifteen (15) percent of the total chargeable floor area to be added above the base FAR, whichever is less.~~

~~b. Bonuses for open space amenities meeting the provisions of this chapter and the Public Benefit Features Rule and having an area of five thousand (5,000) square feet or greater shall not exceed in the aggregate twenty-five (25) percent of the total chargeable floor area to be added above the base FAR. The maximum bonusable area is fifteen thousand (15,000) square feet per open space amenity.~~

~~c. A hillclimb assist, shopping corridor or transit tunnel station access may be provided on sites shown on Map 1K to gain 0.5 FAR for each amenity, regardless of the area of such amenity provided. The total bonus used on any lot from each of such types of amenity shall not exceed 0.5 FAR.~~

~~d. Bonuses for human service use may be allowed at a ratio of seven (7) square feet of floor area granted per one (1) square foot (7:1) of human service feature up to a maximum bonusable human service amenity of ten thousand (10,000) square feet in area.~~

~~e. The bonus ratio for open space amenities other than green street setbacks is five (5) square feet of floor area granted per one (1) square foot (5:1) of open space feature. Green street setback may be allowed at a ratio of one (1) square foot of floor area granted per one (1) square foot (1:1) of open space feature.~~

~~f. The bonus ratio for restrooms shall be seven (7) square feet of floor area granted per one (1) square foot (7:1) of restroom.))~~

Chart 23.49.013A Downtown Amenities

<u>Zone</u>	<u>Location of Lots Eligible to Use Bonus</u>	<u>Bonus</u>	<u>Maximum</u>
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Amenity	Zone Location of Lots Eligible to Use Bonus						Ratio	square feet (SF) of floor area eligible for a bonus
	DOC1	DOC2	DMC 340/290-400	DMC 240/290-400	DRC	DMR		
Hillside Terrace	Only eligible for bonus at locations specified on Map 1J of the Land Use Code						5:1	6,000 SF
Urban Plaza	X	X	X				5:1	15,000 SF
Commercial	X	X	X	X			5:1	7,000 SF
Parcel Park								
Residential Parcel			X	X		X	5:1	12,000 SF
Park								
Green Street	Lots abutting designated green street						5:1	7,000 SF
Parcel Park								
Public Atrium	X	X	X				5:1	5,500 SF
Green Street	Lots abutting designated green street						5:1	No limit
Improvement								
Green Street	Lots abutting designated green street not subject to property line street wall requirement						1:1	10 times the length of lot's green street frontage
Setback								
Hillclimb Assist	Only eligible for bonus at locations specified on Map 1J of the Land Use Code						Not applicable	Maximum gain of 0.5 FAR
Shopping Corridor	Only eligible for bonus at locations specified on Map 1J of the Land Use Code						5:1	7,200 SF
Transit Station Access	X	X	X	X	X	X	Not Applicable	Maximum gain of 1.0 FAR
Public Restroom	X	X	X	X	X	X	7:1	No limit
Human Services	X	X	X	X	X	X	7:1	10,000 SF
Preservation of Landmark Theater	X	X	X				Variable; maximum of 12:1	Maximum gain of 1.0 FAR

"X" indicates that bonus is potentially available.

((g)) b. Any bonus for restoration and preservation of a Landmark performing arts theater shall not exceed ~~((the sum of any amount allowed pursuant to Section 23.49.011 A2a, plus))~~ a maximum of one (1) FAR. Such bonus may be allowed at a variable ratio, as described in the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards, of up to twelve (12) square feet of floor area granted per one (1) square foot (12:1) of performing arts theater space rehabilitated by the applicant, or previously rehabilitated so as to have a useful life at the time the bonus is allowed of no less than twenty (20) years, in each case consistent with any controls applicable to the Landmark performing arts theater and any certificates of approval

1 issued by the Landmarks Preservation Board. For purposes of this subsection, performing arts
2 theater space shall consist only of the following: stage; audience seating; theater lobby;
3 backstage areas such as dressing and rehearsal space; the restrooms for audience, performers and
4 staff; and areas reserved exclusively for theater storage. For any Landmark performing arts
5 theater from which TDR has been ~~((or may be))~~ transferred, or that has received any public
6 funding or subsidy for rehabilitation or improvements, the bonus ratio shall be limited, pursuant
7 to a subsidy review, to the lowest ratio, as determined by the Housing Director, such that the
8 benefits of the bonus, together with the value of any TDR and any public finding or subsidy, are
9 no more than the amounts reasonably necessary to make economically feasible:

10 (1) The rehabilitation and preservation of the Landmark
11 performing arts theater; and

12 (2) Any replacement by the owner of such theater of low-income
13 housing ~~((or low to moderate income housing))~~ that is reasonably required to be eliminated from
14 the lot of the Landmark performing arts theater to make rehabilitation, preservation and
15 operation of the performing arts theater economically feasible.

16 4. ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards. ~~((Amenity~~
17 ~~features must satisfy the applicable provisions of the Public Benefit Features Rule))~~ in order to
18 ~~generate a bonus, except that the Director may allow departures from the provisions of the Public~~
19 ~~Benefit Features Rule))~~

20 a. The Director shall approve a feature for a bonus if the Director
21 determines that the feature satisfies the eligibility conditions of the Downtown Amenity
22 Standards, and that the feature carries out the intent of this section and the guidelines in the
23 Downtown Amenity Standards.

1 b. The Director may allow departures from the eligibility conditions in the
2 Downtown Amenity Standards as a Type I decision, if the applicant can demonstrate that the
3 ~~((feature provides at least an equivalent public benefit and))~~ amenity better achieves the intent
4 ~~((of the feature as))~~ of the amenity as described in this chapter and the ~~((Public Benefit Features~~
5 ~~Rule))~~ Downtown Amenity Standards, and that the departure is consistent with any applicable
6 criteria for allowing the particular type of departure in the Downtown Amenity Standards.

7 c. The Director may condition the approval of a feature for a bonus as
8 provided in the Downtown Amenity Standards.

9 5. Open Space Amenities ~~((y Features))~~. Open space amenities ~~((y Features))~~ must
10 be newly constructed on a lot in a Downtown zone in compliance with the applicable provisions
11 of this chapter and the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards.

12 6. Declaration. When amenities ~~((y Features))~~ are to be provided on-site for
13 purposes of obtaining bonus floor area, the owner shall execute and record a declaration in a
14 form acceptable to the Director identifying the features and the fact that the right, to develop and
15 occupy a portion of the gross floor area on the site is based upon the long-term provision and
16 maintenance of those ~~((features))~~ amenities.

17 7. All bonused amenities shall be provided and maintained in accordance with the
18 applicable provisions of the Downtown Amenity Standards for as long as the portion of the
19 chargeable floor area gained by the amenities exists. A permit is required to alter or remove any
20 bonused amenity.

21 Section 16. Section 23.49.014 of the Seattle Municipal Code, which Section was last
22 amended by Ordinance 121874, is amended as follows:

23 **23.49.014 Transfer of development rights (TDR).**

A. General Standards.

1. The following types of TDR may be transferred to the extent permitted in Chart 23.49.014A, subject to the limits and conditions in this Chapter:

a. Housing TDR;

b. DMC housing TDR;

c. Landmark housing TDR;

~~((b-))~~ d. Landmark TDR; and

~~((e-))~~ e. Open space TDR.

2. In addition to transfers permitted under subsection A1, TDR may be transferred from any lot to another lot on the same block, as within-block TDR, to the extent permitted in Chart 23.49.014A, subject to the limits and conditions in this chapter.

3. ~~((Location of Sending and Receiving Lots.))~~ A lot's eligibility to be either a sending or receiving lot is regulated by Chart 23.49.014A.

4. Except as expressly permitted pursuant to this chapter, development rights or potential floor area may not be transferred from one lot to another.

5. No permit after the first building permit, and in any event, no permit for any construction activity other than excavation and shoring or for occupancy of existing floor area by any use based upon TDR, will be issued for development that includes TDR until the applicant's possession of TDR is demonstrated according to rules promulgated by the Director to implement this section.

B. Standards for Sending Lots.

1. a. The maximum amount of floor area that may be transferred, except as open space TDR, Landmark TDR, or Landmark housing TDR, from an eligible sending lot,

except a sending lot in the PSM or IDM zones, is the amount by which the product of the eligible lot area times the base FAR of the sending lot, as provided in Section 23.49.011, exceeds the sum of any ~~((existing))~~ chargeable gross floor area existing or, if a DMC housing TDR site, to be developed on the sending lot, plus any TDR previously transferred from the sending lot.

b. The maximum amount of floor area that may be transferred from an eligible open space TDR site is the amount by which the product of the eligible lot area times the base FAR of the sending lot, as provided in Section 23.49.011, exceeds the sum of (a) any existing chargeable gross floor area that is built on or over the eligible lot area on the sending lot, plus (b) the amount, if any, by which the total of any other chargeable floor area on the sending lot exceeds the product of the base FAR of the sending lot, as provided in Section 23.49.011, multiplied by the difference between the total lot area and the eligible lot area, plus (c) any TDR previously transferred from the sending lot. ~~((The eligible lot area is the total area of the sending lot, reduced by the excess, if any, of the total of accessory surface parking over one quarter (1/4) of the total area of the footprints of all structures on the sending lot; and for an open space TDR site, further reduced by any portion of the lot ineligible under Section 23.49.027.))~~

c. The maximum amount of floor area that may be transferred from an eligible Landmark housing TDR site is the amount by which the product of the eligible lot area times the base FAR of the sending lot, as provided in Section 23.49.011, exceeds TDR previously transferred from the sending lot, if any.

d. The maximum amount of floor area that may be transferred from an eligible Landmark TDR site, when the chargeable floor area of the landmark structure is less than or equal to the base FAR permitted in the zone, is equivalent to the base FAR of the sending lot, minus any TDR that have been previously transferred. For landmark structures having

1 chargeable floor area greater than the base FAR of the zone, the amount of floor area that may be
2 transferred is limited to an amount equivalent to the base FAR of the sending lot minus the sum
3 of (i) any chargeable floor area of the landmark structure exceeding the base FAR and (ii) any
4 TDR that have been previously transferred.

5 e. For purposes of this subsection 1, the eligible lot area is the total area of
6 the sending lot, reduced by the excess, if any, of the total of accessory surface parking over one-
7 quarter (1/4) of the total area of the footprints of all structures on the sending lot; and for an open
8 space TDR site, further reduced by any portion of the lot ineligible under Section 23.49.016.

9
10 2. When the sending lot is located in the PSM or IDM zone((s)), the gross floor
11 area that may be transferred is six (6) FAR, minus the sum of any existing chargeable gross floor
12 area and any floor area in residential use on the sending lot, and further reduced by any TDR
13 previously transferred from the sending lot.

14 3. When TDR are transferred from a sending lot in a zone with a base FAR limit,
15 the amount of chargeable gross floor area that may then be built on the sending lot shall be equal
16 to the area of the lot multiplied by the applicable base FAR limit set in Section 23.49.011, minus
17 the total of:

18 a. The existing chargeable floor area on the lot; plus

19 b. The amount of gross floor area transferred from the lot.

20 4. When TDR are sent from a sending lot in a PSM zone, the combined maximum
21 chargeable floor area and residential floor area that may then be ~~((built))~~ established on the
22 sending lot shall be equal to the total gross floor area that could have been built on the sending
23

lot consistent with applicable development standards as determined by the Director had no TDR been transferred, less the sum of:

a. The existing chargeable floor area on the lot; plus

b. The amount of gross floor area that was transferred from the lot.

5. Gross floor area allowed above base FAR under any bonus provisions of this title or the former Title 24, or allowed under any exceptions or waivers of development standards, may not be transferred. TDR may be transferred from a lot that contains chargeable floor area exceeding the base FAR only if the TDR are from an eligible Landmark site, consistent with subsection B1c above, or to the extent, if any, that:

a. TDR were previously transferred to such lot in compliance with the Land Use Code provisions and applicable rules then in effect;

b. Those TDR, together with the base FAR under Section 23.49.011, exceed the chargeable floor area on the lot and any additional chargeable floor area for which any permit has been issued or for which any permit application is pending; and

c. The excess amount of TDR previously transferred to such lot would have been eligible for transfer from the original sending lot under the provisions of this section at the time of their original transfer from that lot.

6. Landmark structures on sending lots from which Landmark TDR or Landmark housing TDR are transferred shall be restored and maintained as required by the Landmarks Preservation Board(~~(, according to the procedures in the Public Benefit Features Rule)~~).

7. Housing on lots from which housing TDR are transferred shall be ~~((restored))~~rehabilitated to the extent required to provide decent, sanitary and habitable conditions, in compliance with applicable codes, and so as to have an estimated minimum useful

1 life of at least fifty (50) years from the time of the TDR transfer, ~~((all))~~as approved by the
2 Director of the Office of Housing. Landmark buildings on lots from which Landmark housing
3 TDR are transferred shall be rehabilitated to the extent required to provide decent, sanitary and
4 habitable housing, in compliance with applicable codes, and so as to have an estimated minimum
5 useful life of at least fifty (50) years from the time of the TDR transfer, as approved by the
6 Director of the Office of Housing and the Landmarks Preservation Board. If housing TDR or
7 Landmark housing TDR are proposed to be transferred prior to the completion of work necessary
8 to satisfy this subsection B7, the Director of the Office of Housing may require, as a condition to
9 such transfer, that security be deposited with the City to ensure the completion of such work.

10 8. The housing units on a lot from which housing TDR, Landmark housing TDR,
11 or DMC housing TDR are transferred, and that are committed to low-income housing ~~((or low-~~
12 ~~moderate income housing))~~ use as a condition to eligibility of the lot as a ~~((housing))~~ TDR
13 sending lot ((site)), shall be generally comparable in their average size and quality of
14 construction to other housing units in the same structure, in the judgment of the Housing
15 Director, after completion of any rehabilitation or construction undertaken in order to qualify as
16 a ~~((housing))~~ TDR sending lot ((site)).

17 C. Limit on within-block TDR.

18 Any receiving lot is limited to a gain of ~~((one (1) FAR or))~~ fifteen (15) percent of the floor area
19 above the first increment of FAR above the base FAR, as specified in subsection 23.49.011A2a,
20 ~~((, whichever is less,))~~ from TDR from sending lots that are eligible to send TDR solely because
21 they are on the same block as the receiving lot. ~~((; provided that this limitation shall not apply to~~
22 ~~within block TDR in the DMC and DOC1 zones for the purpose of building a structure that~~
23

~~contains a museum or a museum expansion space that meets the requirements of subsection 23.49.011 B1g.))~~

D. Transfer of Development Rights Deeds and Agreements.

1. The fee owners of the sending lot shall execute a deed with the written consent of all holders of encumbrances on the sending lot, unless (in the case of TDR from a housing TDR site, Landmark housing TDR site or DMC housing TDR site) such consent is waived by the Director of the Office of Housing for good cause, which deed shall be recorded in the King County real property records. When TDR are conveyed to the owner of a receiving lot described in the deed, then unless otherwise expressly stated in the deed or any subsequent instrument conveying such lot or the TDR, the TDR shall pass with the receiving lot whether or not a structure using such TDR shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDR previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in or lien on the receiving lot from which the conveyance is made. If the TDR are transferred other than directly from the sending lot to the receiving lot using the TDR, then after the initial transfer, all subsequent transfers also shall be by deed, duly executed, acknowledged and recorded, each referring by King County recording number to the prior deed.

2. Any person may purchase any TDR that are eligible for transfer by complying with the applicable provisions of this section, whether or not the purchaser is then an applicant for a permit to develop downtown real property. Any purchaser of such TDR (including any successor or assignee) may use such TDR to obtain ~~((FAR))~~ chargeable floor area above the applicable base on a receiving lot to the extent such use of TDR is permitted under the Land Use Code provisions in effect on the date of vesting, under applicable law, of such person's rights

1 with respect to the issuance of permits for development of the project intended to use such TDR.
2 The Director may require, as a condition of processing any permit application using TDR or for
3 the release of any security posted in lieu of a deed for TDR to the receiving lot, that the owner of
4 the receiving lot demonstrate that the TDR have been validly transferred of record to the
5 receiving lot, and that such owner has recorded in the real estate records a notice of the filing of
6 such permit application, stating that such TDR are not available for retransfer.

7 3. For transfers of housing TDR, Landmark housing TDR, or DMC housing TDR,
8 the owner of the sending lot shall execute and record an agreement, with the written consent of
9 all holders of encumbrances on the sending lot, unless such consent is waived by the Director of
10 the Office of Housing for good cause, to provide for the maintenance of the required housing on
11 the sending lot for a minimum of fifty (50) years. Such agreement shall commit to limits on rent
12 and occupancy, consistent with the definition of housing TDR site, Landmark housing TDR site,
13 or DMC housing TDR site, as applicable, and acceptable to the Director of the Office of
14 Housing.

15 4. For transfers of Landmark TDR or Landmark housing TDR, the owner of the
16 sending lot shall execute and record an agreement in form and content acceptable to the
17 Landmarks Preservation Board providing for the restoration and maintenance of the historically
18 significant features of the structure or structures on the lot.

19 5. A deed conveying TDR may require or permit the return of the TDR to the
20 sending lot under specified conditions, but notwithstanding any such provisions:
21
22
23

Chart 23.49.014 A

	TDR Transferable Within-block	Types of TDR Transferable Within or Between Blocks			
Zones((*) ¹	Transfer from any lot within the same Downtown block	Housing TDR	<u>DMC Housing TDR</u>	Landmark TDR and <u>Landmark Housing TDR</u>	Open Space TDR
DOC1 and <u>DOC2</u>	S, R	S, R	<u>X</u>	S, R	S, R
DRC	S, R((**)) ²	S, R((**)) ²	<u>X</u>	S, R((**)) ²	S, R((**)) ²
<u>DMC zones with maximum 10 FAR</u>	<u>S, R</u>	<u>S, R</u>	<u>S</u>	<u>S, R</u>	<u>S, R</u>
<u>DMC zones with ((a height of 85' or greater))maximum 7 FAR</u>	<u>S((****))³</u>	<u>S, R</u>	<u>S, R</u>	<u>S, R</u>	<u>S, R</u>
<u>DMC 85'</u>	<u>X</u>	<u>S, R</u>	<u>X</u>	<u>S, R</u>	<u>S, R</u>
<u>DMC 65'</u>	<u>X</u>	<u>S</u>	<u>X</u>	<u>S</u>	<u>S</u>
DMR	X	S, R((***)) ⁴	<u>X</u>	S, R((***)) ⁴	S, R((***) ⁴
IDM, IDR and PSM	X	S	<u>X</u>	X	X

S = Eligible sending lot. R = Eligible receiving lot. X = Not permitted.

((*)¹Development rights may not be transferred to or from lots in the following zones: PMM; DH1 or DH2.

((**))²Transfers to lots in the DRC zone are permitted only from lots that also are zoned DRC.

((****))³Transfers are permitted only from lots zoned DMC to lots zoned DOC1.

((***))⁴Transfers to lots in the DMR zone are permitted only from lots that also are zoned DMR.

1 a. The transfer of TDR to a receiving lot shall remain effective so long as
2 any portion of any structure for which a permit was issued based upon such transfer remains on
3 the receiving lot; and

4 b. The City shall not be required to recognize any return of TDR unless it
5 is demonstrated that all parties in the chain of title have executed, acknowledged and recorded
6 instruments conveying any interest in the TDR back to the sending lot and any ~~((lienholders))~~
7 lien holders have released any liens thereon.

8 6. Any agreement governing the use or development of the sending lot shall
9 provide that its covenants or conditions shall run with the land and shall be specifically
10 enforceable by The City of Seattle.

11 E. TDR Sales Before Base FAR Increases and Changes in Exemptions.
12 Except for transfers of TDR from a sending lot with a major performing arts facility, transfers of
13 TDR from any lot from which a TDR transfer was made prior to the effective date of Ordinance
14 120443 are limited to the amount of TDR available from such lot immediately prior to such date.

15 F. Projects Developed Under Prior Code Provisions.

16 1. Any project that is developed pursuant to a master use permit issued under the
17 provisions of this title as in effect prior to the effective date of ~~((the))~~ ordinance 120443
18 ~~((codified in this chapter))~~, which permit provides for the use of TDR, may use TDR that were
19 transferred from the sending lot consistent with such prior provisions prior to such effective date.

20 2. In addition or in the alternative, such a project may use TDR that are
21 transferred from a sending lot after the effective date of ~~((the))~~ ordinance 120443 ~~((codified in~~
22 ~~this chapter))~~.

1 3. The use of TDR by any such project must be consistent with the provisions of
2 this title applicable to the project, including any limits on the range of FAR in which a type of
3 TDR may be used, except that ((~~open space~~)) open space TDR may be used by such a project in
4 lieu of any other TDR or any bonus, or both, allowable under such provisions.

5 G. TDR Satisfying Conditions to Transfer Under Prior Code.

6 1. If the conditions to transfer Landmark TDR, as in effect immediately prior to
7 the effective date of Ordinance 120443, the following are satisfied on or before December 31,
8 2001, such TDR may be transferred from the sending lot in the amounts eligible for transfer as
9 determined under the provisions of this title in effect immediately prior to the effective date of
10 Ordinance 120443. If the conditions to transfer housing TDR are satisfied prior to the effective
11 date of Ordinance 120443 under the provisions of this title then in effect, such TDR may be
12 transferred from the sending lot in the amounts eligible for transfer immediately prior to that
13 effective date. If the conditions to transfer TDR from a major performing arts facility are
14 satisfied prior to the effective date of Ordinance 120443 under the provisions of this Title then in
15 effect, TDR may be transferred from the sending lot after that effective date, for use on any
16 receiving lots in zones where housing TDR may be used according to Chart 23.49.014 A, in an
17 amount as determined under subsection B of this section, provided that the cumulative amount of
18 TDR that may be transferred after June 1, 2005 from any sending lot based on the presence of a
19 major performing arts facility is limited to 150,000 square feet.

20 2. For purposes of this subsection, conditions to
21 transfer include, without limitations, the execution by the owner of the sending lot, and recording
22 in the King County real property records, of any agreement required by the provisions of this
23 title or the Public Benefit Features Rule in effect immediately prior to the effective date of

Ordinance 120443, but such conditions do not include any requirement for a master use permit application for a project intending to use TDR, or any action connected with a receiving lot. TDR transferable under this subsection G are eligible either for use consistent with the terms of Section 23.49.011 or for use by projects developed pursuant to permits issued under the provisions of this title in effect prior to the effective date of Ordinance 120443. The use of TDR transferred under this subsection G on the receiving lot shall be subject only to those conditions and limits that apply for purposes of the master use permit decision for the project using the TDR.

H. Time of Determination of TDR Eligible for Transfer. Except as stated in subsection G, the eligibility of a sending lot to transfer TDR, and the amount transferable from a sending lot, shall be determined as of the date of transfer from the sending lot and shall not be affected by the date of any application, permit decision or other action for any project seeking to use such TDR.

I. Use of Previously Transferred TDR by New Projects.
Any project using TDR according to applicable limits on types and amounts of TDR in Section 23.49.011 may use TDR that were transferred from the sending lot consistent with the provisions of this title in effect at the time of such transfer. For purposes of this subsection I, the owner of TDR that were transferred based upon a housing commitment accepted by the City shall be entitled to have such TDR considered as housing TDR.

Section 17. Section 23.49.015 of the Seattle Municipal Code, which Section was last amended by Ordinance 120117, is hereby repealed.

Section 18 . Subchapter I of Chapter 23.49 is amended to add the following new section:
23.49.015 Bonus residential floor area for voluntary agreements for low-income housing and moderate income housing.

1 A. General Provisions.

2 1. The purpose of this section is to encourage residential development in addition
3 to that authorized by basic zoning regulations (“bonus development”), provided that certain
4 adverse impacts from the bonus development are mitigated. "Basic zoning regulations" for
5 purposes of this section are the provisions of Section 23.49.008 that determine base height limits
6 for residential use in DOC-1, DOC-2 and DMC zones, and for DMC zones, the provisions of
7 Section 23.49.058 that determine the maximum average floor area per story. The City has
8 determined that one impact of high-rise residential development is an increased need for low-
9 income housing and moderate-income housing downtown to house the families of workers
10 having lower paid jobs who serve the residents of such development. The City also finds that
11 DOC-1, DOC-2 , and DMC zones are areas in which increased residential development will
12 assist in achieving local growth management and housing policies, and has determined that
13 increased residential development capacity and height of residential structures can be achieved
14 within these zones, subject to consideration of other regulatory controls on development. The
15 City Council finds that in the case of affordable housing for rental occupancy, use of the income
16 level for low-income housing rather than a lower level is necessary to address local housing
17 market conditions, and that in the case of affordable housing for owner occupancy, higher
18 income levels than those for low-income housing are needed to address local housing market
19 conditions. The City hereby adopts the extension of the authority of Chapter 149, Laws of 2006
20 of the State of Washington, to the bonus development program under this Section 23.49.015, in
21 addition to the City’s preexisting authority. To the extent that any provision of this Section or
22 the application thereof to any project for which a Master Use Permit application is considered
23 under the Land Use Code as in effect after the effective date of Section 2 of Chapter 149, Laws

1 of 2006 would conflict with any requirement of that statute, the terms of this Section shall be
2 deemed modified to conform to the requirements of Section 2 of Chapter 149, Laws of 2006.

3 2. An applicant may elect to seek bonus development under this section only for
4 a project in a DOC1, DOC2 or DMC zone that includes residential development. If an applicant
5 elects to seek approval of bonus development under this section, the applicant must execute a
6 voluntary agreement with the City in which the applicant agrees to provide mitigation for
7 impacts described in subsection A1 of this section. The mitigation may be provided in the form
8 of low-income housing or moderate-income housing, or both, either within or adjacent to the
9 residential project using the bonus development (the “performance option”), by paying the City
10 to build or provide the housing (the “payment option”), or by a combination of the performance
11 and payment options.

12 3. No bonus development under this section shall be granted to any proposed
13 development that would result in significant alteration to any designated feature of a Landmark
14 structure unless a Certificate of Approval for the alteration is granted by the Landmarks
15 Preservation Board.

16 4. No bonus development under this section shall be granted for any housing in a
17 new structure unless the applicant makes a commitment that the structure shall earn a LEED
18 Silver rating. When such a commitment is made, the provisions of SMC Section 23.49.020 shall
19 apply. This subsection 4 shall expire and be of no further effect five (5) years after the effective
20 date of this ordinance.

21 5. The Master Use Permit application to establish any bonus development under
22 this section shall include a calculation of the amount of bonus development sought and shall
23 identify the manner in which the conditions to such bonus development shall be satisfied. The

Director shall, at the time of issuance of any Master Use Permit decision approving any such bonus development, issue a Type I decision as to the amount of bonus development to be allowed and the conditions to such bonus development, which decision may include alternative means to achieve bonus development, at the applicant's option, if each alternative would be consistent with any other conditions of the permit, including Design Review conditions if applicable.

B. Voluntary Agreements for Housing.

1. The voluntary agreement shall commit the applicant to provide or contribute to low-income housing or moderate-income housing, or both, in an amount as set forth in this subsection B. The quantities in this subsection are based on findings of an analysis that quantifies the linkages between new market-rate units in high-rise residential structures in DOC1, DOC2, and DMC zones and the demand that residents of such units generate for low-income housing and moderate-income housing. The amount of such housing and income levels served, and the amount of any cash payment, shall be determined as follows:

a. For the performance option, the applicant shall provide, as low-income housing or moderate-income housing, net rentable floor area equal to eleven (11) percent of the net residential floor area sought as bonus development, computed by multiplying the following sum by an efficiency factor of eighty (80) percent: (i) the total square footage of gross residential floor area to be developed on the lot above the base height limit for residential use under SMC Section 23.49.008, plus (ii) the excess, if any, in each tower to be developed on the lot, of (X) the total number of square feet of gross residential floor area between the height of eighty-five (85) feet and such base height limit, over (Y) the product of the "average residential gross floor area limit of stories above 85 feet if height does not exceed the base height limit for residential use"

as provided in Chart 23.49.058D1, column 2, multiplied by the number of stories with residential use in such tower above eighty-five (85) feet and below such base height limit. All low-income housing or moderate income housing provided under the performance option shall be on the lot where the bonus development is used or an adjacent lot. The adjacent lot must be within the block where the bonus development is used and either abut the lot where bonus development is used, or be separated only by public right-of-way. All rental housing provided under the performance option shall be low-income housing.

b. For the payment option, the applicant shall pay the lesser of the following:

(1) an amount that equals the approximate cost of developing the same number and quality of housing units that would be developed under the performance option, as determined by the Director ; or

(2) (i) in DMC zones, ten (10) dollars per square foot of net residential floor area sought as bonus development between the height of eighty-five (85) feet and the base height limit for residential use under Section 23.49.008, fifteen (15) dollars per square foot of the net residential floor area of the first four (4) floors above the base height limit for residential use, twenty (20) dollars per square foot of net residential floor area of the next three (3) floors, and twenty-five (25) dollars per square foot of net residential floor area of the remaining floors up to the maximum residential height limit, not to exceed an average of eighteen dollars and ninety-four cents (18.94) per square foot of net residential floor area sought as bonus development; and (ii) in DOC1 and DOC2 zones, eighteen dollars and ninety-four cents (18.94) per square foot of net residential floor area sought as bonus development above the base height limit for residential use under Section 23.49.008. Net residential floor area shall be

1 computed by multiplying the total gross floor area sought as bonus development by an efficiency
2 factor of eighty (80) percent. The full amount must be paid to the City in cash, except that if the
3 City shall approve by ordinance the acceptance of specific real property in lieu of all or part of
4 the cash payment, the Housing Director may accept such real property.

5 2. Each low-income housing unit provided as a condition to the bonus allowed
6 under this section shall serve only households with incomes at or below eighty (80) percent of
7 median income at the time of their initial occupancy. Each moderate-income housing unit
8 provided as a condition to the bonus allowed under this section shall serve only as owner-
9 occupied housing for households with incomes no higher than median income at the time of their
10 initial occupancy. For rental housing, housing costs, including rent and basic utilities, shall not
11 exceed 30% of eighty (80) percent of median income, adjusted for the average size of family
12 expected to occupy the unit based on the number of bedrooms, all as determined by the Housing
13 Director, for a minimum period of fifty (50) years. For owner-occupied housing, the initial sale
14 price shall not exceed an amount determined by the Housing Director to be consistent with
15 affordable housing for a moderate-income household with the average family size expected to
16 occupy the unit based on the number of bedrooms, and the units shall be subject to recorded
17 instruments satisfactory to the Housing Director providing for sales prices on any resale
18 consistent with affordability on the same basis. The Housing Director may promulgate rules
19 specifying the method of determining affordability, including eligible monthly housing costs.
20 The Housing Director may also promulgate rules for determining whether units satisfy the
21 requirements of this section and any requirements relating to down-payment amount, design,
22 quality, maintenance and condition of the low-income housing or moderate-income housing.

1 3. For purposes of this section, housing may be considered to be provided by the
2 applicant seeking bonus development under the performance option if the housing satisfies all of
3 the following conditions:

4 (i) It is committed to serve an eligible income group, and for a time period,
5 referred to in this section pursuant to an agreement between the housing owner and the City.

6 (ii) The agreement required by subsection (i) is executed and recorded
7 prior to the issuance of the master use permit to establish the use for the project using the bonus
8 development, but except when subsection (iii)(B) below applies, no earlier than 1 year prior to
9 issuance of that master use permit.

10 (iii) Either (A) the Certificate of Occupancy for the new low-income
11 housing or moderate income housing, or both, must be issued within 3 years of the date the
12 Certificate of Occupancy is issued for the project using the bonus, development unless the
13 Housing Director approves an extension based on delays that the applicant or housing developer
14 could not reasonably have avoided, or (B) only in the case of low-income housing on a lot
15 adjacent to the project using bonus development, which housing is subject to a regulatory
16 agreement related to long-term City financing of low-income housing and was developed under a
17 master use permit issued pursuant to a decision that considered the housing together with a
18 project then proposed on that adjacent site, a final Certificate of Occupancy for the low-income
19 housing was issued within 5 years of the building permit issuance for the project proposed for
20 bonus development on the adjacent lot.

21 (iv) If the low-income housing or moderate-income housing is not owned
22 by the applicant, then the applicant made a financial contribution to the low-income housing or
23 moderate-income housing, or promised such contribution and has provided to the City an

1 irrevocable, unconditional letter of credit to ensure its payment, in form and content satisfactory
2 to the Housing Director, in either case in an amount determined by the Housing Director to be,
3 when reduced by the value of any expected benefits to be received for such contribution other
4 than the bonus development, approximately equal to the cost of providing units within the
5 project using the bonus development, and the owner of the low-income housing or moderate-
6 income housing has entered into a linkage agreement with the applicant pursuant to which only
7 the applicant has the right to claim such housing for purposes of bonus development under this
8 section or any other bonus under this title.

9 4. Any applicant seeking to qualify for bonus floor area based on development of
10 new housing shall provide to the City, prior to the date when a contribution would be due for the
11 cash option under subsection C of this section, an irrevocable bank letter of credit or other
12 sufficient security approved by the Director of the Office of Housing, and a related voluntary
13 agreement, so that at the end of the three (3) year period specified in subsection B3 of this
14 section, if the housing does not qualify or is not provided in a sufficient amount to satisfy the
15 terms of this section, the City shall receive (i) a cash contribution for housing in the amount
16 determined pursuant to this section after credit for any qualifying housing then provided, plus (ii)
17 an amount equal to interest on such contribution, at the rate equal to the prime rate quoted from
18 time to time by Bank of America, or its successor, plus three (3) percent per annum, from the
19 date of issuance of the first building permit for the project using the bonus. If and when the City
20 becomes entitled to realize on any such security, the Director of the Office of Housing shall take
21 appropriate steps to do so, and the amounts realized, net of any costs to the City, shall be used in
22 the same manner as cash contributions for housing made under this section. In the case of any
23 project proposing to use bonus development for which no building permit is required, references

1 to the building permit in this subsection shall mean the master use permit allowing establishment
2 or expansion of the use for which bonus development is sought.

3 5. Nothing in this chapter shall be construed to confer on any owner or developer
4 of housing, any party to a linkage agreement, or any assignee, any development rights or
5 property interests. Because the availability and terms of allowance of bonus development depend
6 upon the regulations in effect at the relevant time for the project proposing to use such bonus
7 development, pursuant to SMC Section 23.76.026, any approvals or agreements by the Director
8 of the Office of Housing regarding the eligibility of actual or proposed housing as to satisfy
9 conditions of a bonus, and any approval of a linkage agreement and/or assignment, do not grant
10 any vested rights, nor guarantee that any bonus development will be permitted based on such
11 housing.

12 6. The Director of the Office of Housing is authorized to accept and execute
13 agreements and instruments to implement this section. For the performance option, the
14 voluntary agreement by the applicant or, if the applicant is not the housing owner, then a
15 recorded agreement of the housing owner acceptable to the Housing Director, shall provide for
16 an initial monitoring fee payable to the City of \$500 per unit of low-income housing or
17 moderate-income housing provided, and in the case of rental housing, an annual monitoring fee
18 payable to the City of \$65 for each such unit. For rental housing, such agreement also shall
19 require the housing owner to submit to the City annual reports with such information as the
20 Housing Director shall require for monitoring purposes. In the case of housing for owner-
21 occupancy, the recorded resale restrictions also shall include a provision requiring payment to
22 the City, on any sale or other transfer, of a fee of \$500 for the review and processing of transfer
23 documents to determine compliance with income and affordability restrictions.

1 7. If the Housing Director shall certify to the Director that the Housing Director
2 has accepted and there have been recorded one or more agreements or instruments satisfactory to
3 the Housing Director providing for occupancy and affordability restrictions on housing provided
4 for purposes of the performance option under this section, and that either all affordable housing
5 has been completed or the applicant has provided the City with an irrevocable, unconditional
6 letter of credit satisfactory to the Housing Director in the amount of the contribution to the
7 affordable housing approved by the Housing Director, if applicable, then any failure of such
8 housing to satisfy the requirements of this subsection B shall not affect the right to maintain or
9 occupy the bonus development. Unless and until the Housing Director shall so certify, it shall be
10 a continuing permit condition, whether or not expressly stated, for each project obtaining bonus
11 floor area based on the provision of housing under this subsection, that the low-income or
12 moderate-income housing units, or both, as applicable, shall continue to satisfy the requirements
13 of this subsection throughout the term specified in this section and that such compliance shall be
14 documented to the satisfaction of the Director of the Office of Housing. The Director of the
15 Office of Housing may provide by rule for circumstances in which low-income or moderate-
16 income housing units, or both, as applicable, may be replaced if lost due to casualty or other
17 causes, and for terms and conditions upon which a cash contribution may be made in lieu of
18 continuing to provide low-income housing or moderate-income housing, or both, under the terms
19 of this subsection.

20 8. Housing units produced with voluntary contributions made under this section,
21 shall include a range of unit sizes, including units suitable for families with children. Housing
22 units provided to qualify for bonus development shall comply with the following: (i) they shall
23 be provided in a range of sizes comparable to those available to other residents; (ii) to the extent

1 practicable, the number of bedrooms in low-income units and moderate-income units must be in
2 the same proportion as the number of bedrooms in units within the entire building; (iii) the low-
3 income units and moderate-income units shall generally be distributed throughout the building,
4 except that they may be provided in an adjacent building; and (iv) the low-income units and
5 moderate-income units shall have substantially the same functionality as the other units in the
6 building or buildings. The Housing Director is authorized to prescribe by rule standards and
7 procedures for determining compliance with the requirements of this subsection 7. The Housing
8 Director is further authorized to adopt policies for distribution of unit sizes in housing
9 developments funded by contributions received under this section.

10 9. References in this subsection B to a Certificate of Occupancy for a project
11 mean the first Certificate of Occupancy issued by the City for the project, whether temporary or
12 permanent.

13 C. Cash Option Payments.

14 1. The Director of the Office of Housing may adjust the alternative cash
15 contribution, no more frequently than annually, approximately in proportion to the change in the
16 Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items
17 (1982 – 84=100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or
18 successor index, or any other relevant and appropriate index that such Director may deem
19 appropriate. Any such adjustment to the cash contribution amounts may be implemented
20 through a rule-making process.

21 2. Cash payments under voluntary agreements for bonuses shall be made prior to
22 issuance, and as a condition to issuance, of any building permit after the first building permit for
23 a project, and in any event before any permit for any construction activity other than excavation

1 and shoring is issued, unless the applicant elects in writing to defer payment. If the applicant
2 elects to defer payment, then the issuance of any certificate of occupancy for the project shall be
3 conditioned upon payment of the full amount of the cash payment determined under this Section,
4 plus an interest factor equal to that amount multiplied by the increase, if any, in the Consumer
5 Price Index, All Urban Consumers, West Region, All Items, 1962-64=100, as published
6 monthly, from the last month prior to the date when payment would have been required if
7 deferred payment had not been elected, to the last month for which data are available at the time
8 of payment. If the index specified in this subsection is not available for any reason, the Director
9 shall select a substitute cost of living index. In no case shall the interest factor be less than zero.
10 All payments under this Section shall be deposited in special accounts established solely to fund
11 capital expenditures for the affordable housing for low-income households.

12 D. No Subsidies for Bonused Housing: Exception.

13 1. Intent. Housing provided through the bonus system is intended to mitigate a
14 portion of the additional low-income housing needs resulting from increased high-rise market
15 rate housing development, beyond those needs that would otherwise exist, which the City and
16 other governmental and charitable entities attempt to meet through various subsidy programs.
17 Allowing bonus development under the performance option for housing that uses such subsidy
18 programs therefore could undermine the intent of this section.

19 2. Agreement Concerning Subsidies. The Director of the Office of Housing may
20 require, as a condition of any bonus floor area for housing under the performance option, that the
21 owner of the lot upon which the low-income housing is located agree not to seek or accept any
22 subsidies, including without limitation those items referred to in subsection D3 of this section,
23 related to the housing, except for any subsidies that may be allowed by the Director of the Office

1 of Housing under that subsection. The Housing Director may require that such agreement
2 provide for the payment to the City, for deposit in an appropriate account to be used for
3 Downtown low-income housing, of the value of any subsidies received in excess of any amounts
4 allowed by such agreement.

5 3. No Bonus for Subsidized or Restricted Housing. In general, no bonus may be
6 earned by providing housing if:

7 a. Any person is receiving or will receive with respect to the housing any
8 charitable contributions or public subsidies for housing development or operation, including, but
9 not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle
10 housing loans or grants, county housing funds, State of Washington housing funds, or property
11 tax exemptions or other special tax treatment; or

12 b. The housing is or would be, independent of the requirements for the
13 bonus, subject to any restrictions on the use, occupancy or rents.

14 4. Exceptions by Rule. The Director of the Office of Housing may provide, by
15 rule promulgated after the effective date of this ordinance, for terms and conditions on which
16 exceptions to the restriction on subsidies in this subsection may be allowed. Such rule may
17 provide that, as a condition to any exception, the Director of the Office of Housing shall increase
18 the amount of floor area of low-income housing or moderate-income housing per square foot of
19 bonus development, otherwise determined pursuant to subsection B of this section, to an amount
20 that allows credit for only the Director's estimate of the incremental effect, in meeting the City's
21 housing needs for the next fifty (50) years, of the net financial contribution that is being made by
22 the applicant pursuant to the voluntary agreement and not funded or reimbursed, directly or
23 indirectly, from any other source.

1 Section 19. Section 23.49.016 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 121196, is hereby repealed.

3 Section 20. Subchapter I of Chapter 23.49 is amended to renumber Section 23.49.009,
4 which was last amended by Ordinance 121477, and amend it as follows:

5 **23.49.016 Open space.**

6 A. Finding. The City Council finds that:

7 1. Office workers are the principal users of Downtown open space.

8 2. Additional major office projects Downtown will result in increased use of
9 public open space.

10 3. If additional major office projects Downtown do not provide open space to
11 offset the additional demands on public open space caused by such projects, the result will be
12 overcrowding of public open space, adversely affecting the public health, safety and welfare.

13 4. The additional open space needed to accommodate office workers is at least
14 twenty (20) square feet for each one thousand (1,000) square feet of office space.

15 5. Smaller office developments may encounter design problems in incorporating
16 open space, and the sizes of open spaces provided for office projects under eighty-five thousand
17 (85,000) square feet may make them less attractive and less likely to be used. Therefore, and in
18 order not to discourage small scale office development, projects involving less than eighty-five
19 thousand (85,000) square feet of new office space should be exempt from any open space
20 requirement.

21 6. As indicated in ((DPD's)) the October 1994 report of the Department of
22 Construction and Land Use, with the exception of certain projects, most major recent Downtown
23 office projects have provided significant amounts of on-site open space. Therefore, requiring

open space for future major projects will tend to ensure that existing projects do not bear the burdens caused by new development and will result in an average reciprocity of advantage.

B. Quantity of Open Space. Open space in the amount of twenty (20) square feet for each one thousand (1,000) square feet of gross office floor area shall be required of projects that include eighty-five thousand (85,000) or more square feet of gross office floor area in DOC1, DOC2, DMC, DMR/C and DH2 zones, except that the floor area of a museum expansion space, satisfying the provisions of Section 23.49.011 B1((g))h, shall be excluded from the calculation of gross office floor area.

C. Standards for Open Space. To satisfy this requirement, open space may be provided on-site or off-site, as follows:

1. Private Open Space. Private open space on the project site or on an adjacent lot directly accessible from the project site may satisfy the requirement of this section. Such space shall not be eligible for ~~((public benefit feature))~~ bonuses. Private open space shall be open to the sky and shall be consistent with the general conditions related to landscaping, seating and furnishings contained in the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards. Private open space satisfying this requirement must be accessible to all tenants of the building and their employees.

2. On-site Public Open Space.

a. Open space provided on the project site under this requirement shall be eligible for ~~((public benefit))~~ amenity feature bonuses, as allowed for each zone, provided the open space is open to the public without charge and meets the standards of Section 23.49.013 and the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards for one (1) or more of the following:

- Parcel park;
- Green street setback and green street improvement on an abutting right-of-way;
- Hillside terrace;
- Harborfront open space; or
- Urban plaza.

b. On-site open space satisfying the requirement of subsection C2a of this section may achieve a bonus as an ~~((public benefit))~~ amenity feature not to exceed any limits pursuant to Section 23.49.013, subject to the conditions in this chapter, which bonus shall be counted against, and not increase, the total FAR bonus available from the provision of ~~((Public Benefit))~~ amenity ((F)) features.

3. Off-site Public Open Space.

a. Open space satisfying the requirement of this section may be on a site other than the project site, provided that it is within a Downtown zone, within one-quarter (1/4) mile of the project site, open to the public without charge, and at least five thousand (5,000) square feet in contiguous area. The minimum size of off-site open space and maximum distance from the project may be increased or decreased for a project if the Director determines that such adjustments are reasonably necessary to provide for open space that will meet the additional need for open space caused by the project and enhance public access.

b. Public open space provided on a site other than the project site may qualify for a development bonus for the project if the open space meets the standards of Section 23.49.013 and is one of the open space features cited in subsection C2a of this section. Bonus ratios for off-site open space ~~((shall be as set forth))~~ are prescribed in Section

23.49.013. ~~((Projects that provide off-site open space satisfying this requirement may achieve a public benefit feature bonus not to exceed any limits pursuant to Section 23.49.013, which shall be))~~ This bonus is counted against, and may not increase, the total ~~((FAR))~~ amount of bonus development ~~((available from the provision of Public Benefit Features))~~ allowed under Section 23.49.011 and Section 23.49.013.

4. Easement for Off-site Open Space. The owner of any lot on which off-site open space is provided to meet the requirements of this section shall execute and record an easement in a form acceptable to the Director assuring compliance with the requirements of this section, including applicable conditions of the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards. The Director is authorized to accept such an easement, provided that the terms do not impose any costs or obligations on the City.

D. Payment in Lieu. In lieu of providing open space under this requirement, an owner may make a payment to the City if the Director determines that the payment will contribute to the improvement of a designated green street or to other public open space improvements abutting the lot or in the vicinity, in an amount sufficient to develop improvements that will meet the additional need for open space caused by the project, and that the improvement ~~((of such green street))~~ within a reasonable time is feasible. Any such payment shall be placed in a dedicated fund or account and used within five (5) years of receipt for the development of such ~~((a green street))~~ improvements, unless the property owner and the City agree upon another use involving the acquisition or development of public open space that will mitigate the impact of the project. A bonus may be allowed for a payment ~~((for green street))~~ in lieu of providing improvement made wholly or in part to satisfy the requirements of this section, pursuant to Section 23.49.013.

1 E. Limitations. Open space satisfying the requirement of this section for any project shall
2 not be used to satisfy the open space requirement for any other project, nor shall any bonus be
3 granted to any project for open space meeting the requirement of this section for any other
4 project. When a transmitting antenna is sited or proposed to be sited on a rooftop where required
5 open space is located, see Section 23.57.013. Open space on the site of any building for which a
6 Master Use Permit decision was issued or a complete building permit application was filed prior
7 to the effective date of ~~((the))~~ ordinance 117430 ~~((codified in this section))~~, that is not required
8 under the Land Use Code in effect when such permit decision was issued or such application
9 filed but that would have been required for the same building by this section, shall not be used to
10 satisfy the open space requirement or to gain an FAR bonus for any other project.

11 F. Authority. This section is adopted pursuant to the Growth Management Act, the City's
12 Comprehensive Plan and the City's inherent police power authority. The City Council finds that
13 the requirements of this section are necessary to protect and promote the public health, safety and
14 welfare.

15 Section 21. Subchapter I of Chapter 23.49 is amended to renumber Section 23.49.027,
16 which section was enacted by Ordinance 120443, and amend it as follows:

17 **Section 23.49.017 Open((-))_space TDR Site Eligibility**

18 A. Intent. The intent of open((-))_space TDR is to provide opportunities for establishing a
19 variety of usable public open space generally distributed to serve all areas of downtown.

20 B. Application and Approval. The owner of a lot who wants to establish and convey open
21 space TDR shall apply to the Director for approval of the lot as a sending lot for open space
22 TDR. The application shall include a design for the open space in such detail as the Director
23 shall require and a maintenance plan for the open space. The Director shall review the

1 application pursuant to the provisions of this section, and shall approve, disapprove or
2 conditionally approve the application to establish and convey open space TDR. Conditions may
3 include, without limitation, assurance of funding for long-term maintenance of the open space
4 and dates when approvals shall expire if the open space is not developed.

5 C. Area Eligible for Transfer. For purposes of calculating the amount of TDR
6 transferable under Section 23.49.014, Transfer of Development Rights (TDR), eligible area does
7 not include any portion of the lot occupied above grade by a structure or use unless the structure
8 or use is accessory to the open space.

9 D. Basic requirements. In order to qualify as a sending lot for open space TDR, the
10 sending lot must include open space that satisfies the basic requirements of this subsection,
11 unless an exception is granted by the Director pursuant to ((Section 23.49.039)) subsection H of
12 this Section. A sending lot for open space TDR must:

13 1. Include a minimum area as follows:

14 a. Contiguous open space with a minimum area of fifteen thousand
15 (15,000) square feet; or

16 b. A network of adjacent open spaces, which may be separated by a street
17 right-of-way, that are physically and visually connected with a minimum area of thirty thousand
18 (30,000) square feet;

19 2. Be directly accessible from the sidewalk or another public open space,
20 including access for persons with disabilities;

21 3. Be at ground level, except that in order to provide level open spaces on steep
22 lots, some separation of multiple levels may be allowed, provided they are physically and
23 visually connected;

4. Not have more than twenty (20) percent of the lot area occupied by any above grade structures; and

5. Be located a minimum of one quarter (1/4) mile from the closest lot approved by the Director as a separate open space TDR (~~((sending lot))~~) site.

E. Open Space Guidelines. The Director shall consider the following guidelines, and may disapprove or condition an application based on one or more of them. If the Director determines that the design for the open space will substantially satisfy the intent of the guidelines as a whole, the Director need not require that every guideline be satisfied as a condition to approval. Open space should be designed to:

1. Be well integrated with downtown's pedestrian and transit network;

2. Be oriented to promote access to sun and views and protection from wind, taking into account potential development on adjacent lots built to the maximum limits zoning allows;

3. Enhance user safety and security and ease of maintenance;

4. Be highly visible because of the relation to the street grid, topographic conditions, surrounding development pattern, or other factors, thereby enhancing public access and identification of the space as a significant component of the urban landscape;

5. Incorporate various features, such as seating and access to food service, that are appropriate to the type of area and that will enhance public use of the area as provided by the guidelines for an urban plaza in the (~~((Public Benefit Features Rule))~~) Downtown Amenity Standards;

6. Provide such ingress and egress as will make the areas easily accessible to the general public along street perimeters;

7. Be aesthetically pleasing space that is well integrated with the surrounding area through landscaping and special elements, which should establish an identity for the space while providing for the comfort of those using it;

8. Increase activity and comfort while maintaining the overall open character of public outdoor space; and

9. Include artwork as an integral part of the design of the public space.

F. Public Access.

1. Recorded Documents. The open space must be subject to a recorded easement, or other instrument acceptable to the Director, to limit any future development on the lot and to ensure general public access and the preservation and maintenance of the open space, unless such requirement is waived by the Director for open space in public ownership. The Director is authorized to accept such an easement or instrument, so long as its terms do not impose obligations or costs on the City.

2. Hours of Operation. The open space must be open to the general public without charge for reasonable and predictable hours, such as those for a public park, for a minimum of ~~((six (6)))~~ ten (10) hours each day of every week. Within the open space, property owners, tenants and their agents shall allow individuals to engage in activities allowed in public parks of a similar nature. Free speech activities such as hand billing, signature gathering and holding signs, all without obstructing access to the open space, or adjacent buildings or features, and without unreasonably interfering with the enjoyment of the space by others, shall be allowed. While engaged in allowed activities members of the public may not be asked to leave for any reason other than conduct that unreasonably interferes with the enjoyment of the space by others.

3. Plaque Requirement. A plaque indicating the nature of the site and its availability for general public access must be placed in a visible location at the entrances to the site. The text on the plaque is subject to the approval of the Director.

G. Maintenance. The property owner and/or another responsible party who shall have assumed obligations for maintenance on terms approved by the Director, shall maintain all elements of the site, including but not limited to landscaping, parking, seating and lighting, in a safe and clean condition as provided for in a maintenance plan to be approved by the Director.

H. Special exception for Open Space TDR sites.

The Director may authorize an exception to the requirements for open space TDR sites in subsection D of this Section, as a special exception pursuant to Chapter 23.76, Procedures for Master Use Permit and Council Land Use Decisions.

1. The provisions of this subsection H will be used by the Director in determining whether to grant, grant with condition or deny a special exception. The Director may grant exceptions only to the extent such exceptions further the provisions of this subsection H.

2. In order for the Director to grant, or grant with conditions, an exception to the requirements for open space TDR sites, the following must be satisfied:

a. The exception allows the design of the open space to take advantage of unusual site characteristics or conditions in the surrounding area, such as views and relationship to surroundings; and

b. The applicant demonstrates that the exceptions would result in an open-space that better meets the intent of the provisions for open space TDR sites in subsection G of this Section.

Section 22. [Reserved]

1 Section 23. Section 23.49.017 of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 121477, is hereby repealed.

3 Section 24. Section 23.49.018 of the Seattle Municipal Code, which Section was last
4 amended by Ordinance 120611, is hereby repealed.

5 Section 25. Section 23.49.019 of the Seattle Municipal Code, which Section was last
6 amended by Ordinance 120443, is hereby repealed.

7 Section 26. Section 23.49.020 of the Seattle Municipal Code, which Section was last
8 amended by Ordinance 121477, is hereby repealed.

9 Section 27. Subchapter I of Chapter 23.49 is amended to add the following new section:

10 **23.49.018 Overhead Weather Protection and Lighting.**

11 A. Continuous overhead weather protection shall be required for new development along
12 the entire street frontage of a lot except along those portions of the structure façade that:

13 1. are located farther than five (5) feet from the street property line or widened
14 sidewalk on private property; or

15 2. abut a bonused open space amenity feature; or

16 3. are separated from the street property line or widened sidewalk on private
17 property by a landscaped area at least two (2) feet in width; or

18 4. are driveways into structures or loading docks.

19 B. Overhead weather protection shall have a minimum dimension of eight (8) feet
20 measured horizontally from the building wall or must extend to a line two (2) feet from the curb
21 line, whichever is less.

22 C. The installation of overhead weather protection shall not result in any obstructions in
23 the sidewalk area.

D. The lower edge of the overhead weather protection must be a minimum of ten (10) feet and a maximum of fifteen (15) feet above the sidewalk.

E. Lighting for pedestrians shall be provided if ambient lighting from other sources is not adequate. The lighting may be located on the façade of the building or on the overhead canopy.

Section 28. Subchapter I of Chapter 23.49 is amended to add the following new section:

23.49.019 Parking quantity, location and access requirements, and screening and landscaping of surface parking areas.

The regulations in this section do not apply to the Pike Market Mixed zones.

A. Parking Quantity Requirements

1. No parking, either long-term or short-term, is required for uses on lots in Downtown zones, except as follows:

a. In the International District Mixed and International District Residential zones, parking requirements for restaurants, motion picture theaters, and other entertainment uses and places of public assembly are as prescribed by Section 23.66.342.

b. In the International District Mixed and International District Residential zones, the Director of the Department of Neighborhoods, upon the recommendation of the International District Special Review District Board may waive or reduce required parking according to the provisions of Section 23.66.342, Parking and access.

c. Bicycle parking is required as specified in E1 of this Section.

2. Reduction or Elimination of Parking Required by Permits. A property owner may apply to the Director for the reduction or elimination of parking required by any permit

1 issued under this title or Title 24, except for a condition contained in or required pursuant to any
2 Council conditional use, contract rezone, planned community development or other Type IV
3 decision. The Director may grant reduction or elimination of required parking as a Type I
4 decision, either as part of a Master Use Permit for the establishment of any new use or structure,
5 or as an independent application for reduction or elimination of parking required by permit.
6 Parking for bicycles may not be reduced or eliminated under this subsection. Any
7 Transportation Management Plan (TMP) required by permit for the development for which a
8 parking reduction or elimination is proposed shall remain in effect, except that the Director may
9 change the conditions of the TMP to reflect current conditions and to mitigate any parking and
10 traffic impacts of the proposed changes. If any bonus floor area was granted for the parking, then
11 reduction or elimination shall not be permitted except in compliance with applicable provisions
12 regarding the elimination or reduction of bonus features. If any required parking that is allowed
13 to be reduced or eliminated under this subsection is the subject of a recorded parking covenant,
14 the Director may authorize modification or release of the covenant.

15 B. Parking Location within Structures.

16 1. Parking at street level

17 a. On Class I pedestrian streets and designated green streets, parking is not
18 permitted at street level unless separated from the street by other uses, provided that garage doors
19 need not be separated.

20 b. On Class II pedestrian streets, parking may be permitted at street level
21 if:

(1) at least thirty (30) percent of the street frontage of any street level parking area, excluding that portion of the frontage occupied by garage doors, is separated from the street by other uses;

(2) the facade of the separating uses satisfies the transparency and blank wall standards for Class I pedestrian streets for the zone in which the structure is located;

(3) the portion of the parking, excluding garage doors, that is not separated from the street by other uses is screened from view at street level; and

(4) the street facade is enhanced by architectural detailing, artwork, landscaping, or similar visual interest features.

2. Except as provided in subsection B1 above for parking at street level, parking within structures shall be located below street level or separated from the street by other uses, except as follows:

a. On lots that are less than thirty thousand (30,000) square feet in size or that are less than one hundred and fifty (150) feet in depth measured from the lot line with the greatest street frontage, parking shall be permitted above the first story under the following conditions:

(1). One story of parking shall be permitted above the first story of a structure for each story of parking provided below grade that is of at least equivalent capacity, up to a maximum of four stories of parking above the first story.

(2). Parking above the third story of a structure shall be separated from the street by another use for a minimum of 30% of each street frontage of the structure. For structures on lots located at street intersections, the separation by another use shall be provided at the corner portion(s) of the structure.

(3) The perimeter of each story of parking above the first story of the structure shall have an opaque screen at least three and one-half (3½) feet high where the parking is not separated from the street by another use.

b. The Director may permit more than four stories of parking above the first story of the structure, or may permit other exceptions to subsection B2a(1) as a Type I decision if the Director finds that locating parking below grade is infeasible due to physical site conditions such as a high water table or proximity to a tunnel. In such cases, the applicant shall place the maximum feasible amount of parking below grade before more than four stories of parking above the first story shall be permitted.

C. Maximum Parking Limit for Nonresidential Uses.

1. Except as provided in subsection C2 below, parking for nonresidential uses is limited to a maximum of one parking space per one thousand (1,000) square feet.

2. More than one (1) parking space per one thousand (1,000) square feet of nonresidential use may be permitted as a special exception pursuant to Chapter 23.76. When deciding whether to grant a special exception, the Director shall consider evidence of parking demand and alternative means of transportation, including but not limited to the following:

a. Whether the additional parking will substantially encourage the use of single occupancy vehicles;

b. Characteristics of the work force and employee hours, such as multiple shifts that end when transit service is not readily available;

c. Proximity of transit lines to the lot and headway times of those lines;

d. The need for a motor pool or large number of fleet vehicles at the site;

1 e. Proximity to existing long-term parking opportunities downtown which
2 might eliminate the need for additional parking on the lot;

3 f. Whether the additional parking will adversely affect vehicular and
4 pedestrian circulation in the area;

5 g. Potential for shared use of additional parking as residential or short-
6 term parking.

7 h. The need for additional short-term parking to support shopping in the
8 retail core or retail activity in other areas where short-term parking is limited.

9 D. Ridesharing and transit incentive program requirements.

10 The following requirements apply to all new structures containing more than ten
11 thousand (10,000) square feet of new nonresidential use, and to structures where more than ten
12 thousand (10,000) square feet of nonresidential use is proposed to be added.

13 1. The building owner shall establish and maintain a transportation coordinator
14 position for the proposed structure and designate a person fill this position, or the building owner
15 may contract with an area-wide transportation coordinator acceptable to the Department. The
16 transportation coordinator shall devise and implement alternative means for employee
17 commuting. The transportation coordinator shall be trained by the Seattle Department of
18 Transportation or by an alternative organization with ridesharing experience, and shall work with
19 the Seattle Department of Transportation and building tenants. The coordinator shall disseminate
20 ridesharing information to building occupants to encourage use of public transit, carpools,
21 vanpools and flextime; administer the in-house ridesharing program; and aid in evaluation and
22 monitoring of the ridesharing program by the Seattle Department of Transportation. The
23

1 transportation coordinator in addition shall survey all employees of building tenants once a year
2 to determine commute mode percentages.

3 2. The Seattle Department of Transportation, in conjunction with the
4 transportation coordinator, shall monitor the effectiveness of the ridesharing/transit incentive
5 program on an annual basis. The building owner shall allow a designated Department of
6 Transportation or rideshare representative to inspect the parking facility and review operation of
7 the ridesharing program.

8 3. The building owner shall provide and maintain a transportation information
9 center, which has transit information displays including transit route maps and schedules and
10 Seattle ridesharing program information. The transportation display shall be located in the lobby
11 or other location highly visible to employees within the structure, and shall be established prior
12 to issuance of a certificate of occupancy.

13 E. Bicycle Parking

14 1. The minimum number of off-street spaces for bicycle parking required for
15 specific use categories is set forth in Chart 23.49.019 A below. In the case of a use not shown on
16 Chart 23.49.019 A, there is no minimum bicycle parking requirement. After the first fifty (50)
17 spaces for bicycles are provided for a use, additional spaces are required at one half (1/2) the
18 ratio shown in Chart 23.49.019 A. Spaces within dwelling units or on balconies do not count
19 toward the bicycle parking requirement.

20

Chart 23.49.019 A	
Use	Bicycle Parking Required
Office	1 space per 5,000 square feet of gross floor area of office use
Hotel	.05 spaces per hotel room
Retail use over 10,000	1 space per 5,000 square feet of

21
22
23

square feet	gross floor area of retail use
Residential	1 space for every 2 dwelling units

2. Required bicycle parking shall be provided in a safe, accessible and convenient location. Bicycle parking hardware shall be installed according to its manufacturer's instructions, and the Seattle Department of Transportation design criteria, allowing adequate clearance for bicycles and their riders. Directional signage shall be installed when bike parking facilities are not clearly visible from the street or sidewalk. When any covered automobile parking is provided, all required long-term bicycle parking shall be covered. When located off-street, bicycle and automobile parking areas shall be separated by a barrier or painted lines.

3. Bicycle parking facilities for nonresidential uses shall be located on the lot or in a shared bicycle parking facility within one hundred (100) feet of the lot, except as provided in subsection 6 below.

4. Bicycle parking for residential uses shall be located on-site.

5. Co-location of bicycle parking facilities by more than one (1) use is encouraged.

6. For nonresidential uses, the applicant may make a payment to the City to fund public bicycle parking in the public right-of-way in lieu of providing required bicycle parking on- or off-site, if the Director determines that:

a. Safe, accessible and convenient bicycle parking accessory to a nonresidential use cannot be provided on-site or in a shared bicycle parking facility within one hundred (100) feet of the lot, without extraordinary physical or financial difficulty;

1 b. The payment is comparable to the cost of providing the equivalent
2 bicycle parking on-site, and takes in consideration the cost of materials, equipment and labor for
3 installation; and

4 c. The bicycle parking funded by the payment is located within sufficient
5 proximity to serve the bicycle parking demand generated by the project.

6 d. Any such payment shall be placed in a dedicated fund or account and
7 used within five (5) years of receipt to provide the bicycle parking.

8 F. Bicycle Commuter Shower Facilities

9 Structures containing two hundred fifty thousand (250,000) square feet or more of office
10 gross floor area shall include shower facilities and clothing storage areas for bicycle commuters.
11 One shower per gender shall be required for every two hundred fifty thousand (250,000) square
12 feet of office use. Such facilities shall be for the use of the employees and occupants of the
13 building, and shall be located where they are easily accessible to parking facilities for bicycles.

14 G. Off-street Loading.

15 1. Off-street loading spaces shall be provided according to the standards of
16 Section 23.54.030, Parking space standards.

17 2. In Pioneer Square Mixed zones, the Department of Neighborhoods Director,
18 after review and recommendation by the Pioneer Square Preservation Board, may waive or
19 reduce required loading spaces according to the provisions of Section 23.66.170, Parking and
20 access.

21 3. In International District Mixed and International District Residential zones, the
22 Department of Neighborhoods Director, after review and recommendation by the International
23

District Special Review District Board, may waive or reduce required loading spaces according to the provisions of Section 23.66.342, Parking and access.

H. Standards for location of access to parking.

This subsection does not apply to Pike Market Mixed, Pioneer Square Mixed, International District Mixed, and International District Residential zones.

1. Curbcut Location. When a lot abuts more than one (1) right-of-way, the location of access shall be determined by the Director after consulting with the Director of Transportation. The Director shall consider the classification of rights-of-way on Map 1B and the ranking of the classification below, from most to least preferred:

a. Alley, if of sufficient width to accommodate existing and anticipated uses;

b. Access street;

c. Class II pedestrian street-Minor arterial;

d. Class II pedestrian street-Principal arterial;

e. Class I pedestrian street-Minor arterial;

f. Class I pedestrian street-Principal arterial;

g. Principal transit street.

2. Curbcut controls on designated green streets shall be evaluated on a case-by-case basis, but generally access from green streets is not allowed.

3. The preferred right-of-way for access indicated by subsection H1 shall be further evaluated by the Director, after consulting with the Director of Transportation, for a final determination based on whether the location of the access will expedite the movement of

vehicles, facilitate a smooth flow of traffic, avoid the on-street queuing of vehicles, enhance vehicular safety and pedestrian comfort, or create a hazard.

4. Curbscut Width and Number. The width and number of curbcuts shall comply with the provisions of Section 23.54.030, Parking space standards.

I. Screening and landscaping of surface parking areas.

1. Screening. Surface parking areas for more than five (5) vehicles shall be screened in accordance with the following requirements:

a. Screening is required along each street lot line.

b. Screening shall consist of a landscaped berm, or a view-obscuring fence or wall at least three (3) feet in height.

c. A landscaped strip on the street side of the fence or wall shall be provided when a fence or wall is used for screening. The strip shall be an average of three (3) feet from the property line, but at no point less than one and one-half (1 1/2) feet wide. Each landscaped strip shall be planted with sufficient shrubs, grass and/or evergreen groundcover so that the entire strip, excluding driveways, will be covered in three (3) years.

d. Sight triangles shall be provided in accordance with Section 23.54.030, Parking space standards.

2. Landscaping. Surface parking areas for twenty (20) or more vehicles, except temporary surface parking areas, shall be landscaped in accordance with the following requirements:

a. Amount of landscaped area required:

Total Number of Parking Spaces	Required Landscaped Area
20 to 50 spaces	18 square feet per parking space

51 to 99 spaces 25 square feet per parking space

100 or more spaces 35 square feet per parking space

b. The minimum size of a required landscaped area is one hundred (100) square feet. Berms provided to meet the screening standards in subsection I2 of this section may be counted as part of a landscaped area. No part of a landscaped area shall be less than four (4) feet in any dimension except those dimensions reduced by turning radii or angles of parking spaces.

c. No parking stall shall be more than sixty feet (60') from a required landscaped area.

d. One (1) tree per every five (5) parking spaces is required.

e. Each tree shall be at least three (3) feet from any curb of a landscaped area or edge of the parking area.

f. Permanent curbs or structural barriers shall enclose landscaped areas.

g. Sufficient hardy evergreen groundcover shall be planted to cover each landscaped area completely within three (3) years. Trees shall be selected from Seattle Department of Transportation's list for parking area planting.

Section 29. Subchapter I of Chapter 23.49 is amended to add the following new section:

23.49.020 Demonstration of LEED Silver rating.

A. Applicability. This section applies whenever a commitment to earn a LEED Silver rating or substantially equivalent standard is a condition of a permit pursuant to SMC Section 23.49.011 or 23.49.015.

B. Demonstration of Compliance; Penalties.

1. The applicant shall demonstrate to the Director the extent to which the applicant has complied with the commitment to earn a LEED Silver rating no later than ninety days after issuance of final Certificate of Occupancy for the new structure, or such later date as may be allowed by the Director for good cause, by submitting a report analyzing the extent credits earned toward such rating from the U.S. Green Building Council or another independent entity approved by the Director. For purposes of this section, if the Director shall have approved a commitment to achieve a substantially equivalent standard, the term "LEED Silver rating" shall mean such other standard.

2. Failure to submit a timely report regarding a LEED Silver rating from an approved independent entity by the date required is a violation of the Land Use Code. The penalty for such violation shall be \$500 per day from the date when the report was due to the date it is submitted, without any requirement of notice to the applicant.

3. Failure to demonstrate, through an independent report as provided in this subsection, full compliance with the applicant's commitment to earn a LEED

Silver rating, is a violation of the Land Use Code. The penalty for each violation is an amount determined as follows:

$$P = [(LSM - CE) / LSM] \times CV \times 0.0075,$$

where:

P is the penalty;

LSM is the minimum number of credits to earn a LEED Silver rating;

CE is the number of credits earned as documented by the report; and

CV is the Construction Value as set forth on the building permit for the new structure.

Example:

Construction Value	\$ 200,000,000.00
Minimum LEED Credits for Silver rating	33
Credits Earned	32
Penalty = $[(33 - 32) / 33] \times 200,000,000 \times .0075$	= \$45,454.55

4. Failure to comply with the applicant's commitment to earn a LEED Silver rating is a violation of the Land Use Code independent of the failure to demonstrate compliance; however, such violation shall not affect the right to occupy any chargeable floor area, and if a penalty is paid in the amount determined under subsection B3 of this section, no additional penalty shall be imposed for the failure to comply with the commitment.

5. If the Director determines that the report submitted provides satisfactory evidence that the applicant's commitment is satisfied, the Director shall issue a certificate to the applicant so stating. If the Director determines that the

applicant did not demonstrate compliance with its commitment to earn a LEED Silver rating in accordance with this section, the Director may give notice of such determination, and of the calculation of the penalty due, to the applicant.

6. If, within 90 days, or such longer period as the Director may allow for good cause, after initial notice from the Director of a penalty due under this subsection, the applicant shall demonstrate, through a supplemental report from the independent entity that provided the initial report, that it has made sufficient alterations or improvements to earn a LEED Silver rating, or to earn more credits toward such a rating, then the penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so redetermined shall be final. If the applicant does not submit a supplemental report in accordance with this subsection by the date required under this subsection, then the amount of the penalty as set forth in the Director's original notice shall be final.

7. Any owner, other than the applicant, of any lot on which the bonus development was obtained or any part thereof, shall be jointly and severally responsible for compliance and liable for any penalty due under this subsection.

C. Use of Penalties. A subfund shall be established in the City's General Fund to receive revenue from penalties under subsection B of this section. Revenue from penalties under that subsection shall be allocated to activities or incentives to encourage and promote the development of sustainable buildings. The Director shall recommend to the Mayor and City Council how these funds should be allocated.

Section 30. Section 23.49.025 of the Seattle Municipal Code, which Section was last amended by Ordinance 120967, is hereby repealed.

Section 31. Subchapter I of Chapter 23.49 is amended to add the following new section:

23.49.025 Odor, noise, light/glare, and solid waste recyclable materials storage space standards.

A. The venting of odors, fumes, vapors, smoke, cinders, dust, and gas shall be at least ten (10) feet above finished sidewalk grade, and directed away from residential uses within fifty (50) feet of the vent.

1. Major Odor Sources.

a. Uses that employ the following odor-emitting processes or activities are considered major odor sources:

Lithographic, rotogravure or flexographic printing;

Film burning;

Fiberglassing;

Selling of gasoline and/or storage of gasoline in tanks larger than two hundred sixty (260) gallons;

Handling of heated tars and asphalts;

Incinerating (commercial);

Metal plating;

Use of boilers (greater than 106 British thermal units per hour, ten thousand (10,000) pounds steam per hour, or thirty (30) boiler horsepower);

Other similar uses.

b. Uses which employ the following processes are considered

major odor sources except when the entire activity is conducted as part of a retail sales and service use:

- Cooking of grains;
- Smoking of food or food products;
- Fish or fishmeal processing;
- Coffee or nut roasting;
- Deep fat frying;
- Dry cleaning;
- Other similar uses.

2. Review of Major Odor Sources. When an application is made for

a use which is a major odor source, the Director, in consultation with the Puget Sound Clean Air Agency (PSCAA), shall determine the appropriate measures to be taken by the applicant in order to significantly reduce potential odor emissions and airborne pollutants. The measures to be taken shall be specified on plans submitted to the Director, and may be required as conditions for the issuance of any permit. After a permit has been issued, any measures that were required by the permit shall be maintained.

B. Noise standards

1. All food processing for human consumption, custom and craft work involving the use of mechanical equipment, and light manufacturing activities shall be conducted wholly within an enclosed structure.

2. The following uses or devices are considered major noise generators:

- a. Light manufacturing uses;
- b. Auto body, boat and aircraft repair shops; and
- c. Other similar uses.

3. When a major noise generator is proposed, a report from an acoustical consultant shall be required to describe the measures to be taken by the applicant in order to meet noise standards for the area. Such measures may include, for example, the provision of buffers, reduction in hours of operation, relocation of mechanical equipment, increased setbacks, and use of specified construction techniques or building materials. Measures to be taken shall be specified on the plans. After a permit has been issued, any measures that are required by the permit to limit noise shall be maintained.

C. Lighting and glare.

1. Exterior lighting shall be shielded and directed away from adjacent uses.

2. Interior lighting in parking garages shall be shielded, to minimize nighttime glare affecting nearby uses.

D. Solid waste and recyclable materials storage space.

1. Storage space for solid waste and recyclable materials containers shall be provided for all new structures permitted in Downtown zones and expanded multifamily structures as indicated in the table below. For the purposes of this

subsection, the addition of two or more units to a multifamily structure shall be considered expansion.

2. The design of the storage space shall meet the following requirements:

a. The storage space shall have no dimension (width and depth) less than six (6) feet;

b. The floor of the storage space shall be level and hard-surfaced (garbage or recycling compactors require a concrete surface); and

c. If located outdoors, the storage space shall be screened from public view and designed to minimize light and glare impacts.

3. The location of the storage space shall meet the following requirements:

a. The storage space shall be located within the private property boundaries of the structure it serves and, if located outdoors, it shall not be located between a street facing facade of the structure and the street;

b. The storage space shall not be located in any required driveways, parking aisles, or parking spaces for the structure;

c. The storage space shall not block or impede any fire exits, public rights-of-ways or any pedestrian or vehicular access; and

d. The storage space shall be located to minimize noise and odor to building occupants and neighboring developments.

4. Access to the storage space for occupants and service providers shall meet the following requirements:

1 a. For rear-loading containers:

2 (1) Any ramps to the storage space shall have a
3 maximum slope of six (6) percent, and

4 (2) Any gates or access routes shall be a minimum of
5 six (6) feet wide; and

6 b. For front-loading containers:

7 (1) Direct access shall be provided from the alley or
8 street to the containers,

9 (2) Any proposed gates or access routes shall be a
10 minimum of ten (10) feet wide, and

11 (3) When accessed directly by a collection vehicle
12 into a structure, a twenty-one (21) foot overhead clearance shall be provided.

13 5. The solid waste and recyclable materials storage space
14 specifications required in subsections 1, 2, 3, and 4 of this subsection above, in
15 addition to the number and sizes of containers, shall be included on the plans
16 submitted with the permit application.

17 6. The Director, in consultation with the Director of Seattle Public
18 Utilities, shall have the discretion to allow departure from the requirements of
19 subsections 1, 2, 3, and 4 of this subsection as a Type I decision when the applicant
20 proposes alternative, workable measures that meet the intent of this section and:

21 a. For new construction, the applicant can demonstrate
22 significant difficulty in meeting any of the requirements of subsections 1, 2, 3, and
23 4 of this subsection due to unusual site conditions such as steep topography; or

b. For expansion of an existing building, the applicant can demonstrate that the requirements of subsections 1, 2, 3, and 4 of this subsection conflict with opportunities to retain ground-level retail uses.

Seattle Municipal Code

Chart 23.49.025 A

Structure Type	Structure Size	Minimum Area for Storage Space	Container Type
Multifamily*	7 -- 15 units	75 square feet	Rear-loading
	16 -- 25 units	100 square feet	Rear-loading
	26 -- 50 units	150 square feet	Front-loading
	51 -- 100 units	200 square feet	Front-loading
	More than 100 units	200 square feet plus 2 square feet for each additional unit	Front-loading
Commercial*	0 -- 5,000 square feet	82 square feet	Rear-loading
	5,001 -- 15,000 square feet	125 square feet	Rear-loading
	15,001 -- 50,000 square feet	175 square feet	Front-loading
	50,001 -- 100,000 square feet	225 square feet	Front-loading
	100,001 -- 200,000 square feet	275 square feet	Front-loading
	200,001 plus square feet	500 square feet	Front-loading

* Mixed Use Buildings. Mixed use buildings with eighty (80) percent or more of floor space designated for residential use will be considered residential buildings. All other mixed use buildings will be considered commercial buildings.

Section 32. [Reserved].

Section 33. Subsection A of Section 23.49.032 of the Seattle Municipal Code, which Section was enacted by Ordinance 120443, is amended as follows:

23.49.032 Additions of ((gross)) chargeable floor area to lots with existing structures.

A. When development is proposed on a lot that will retain existing structures containing chargeable floor area in excess of the applicable base FAR, additional chargeable floor area may be added to the lot up to the maximum permitted FAR, by qualifying for bonuses or using TDR, or both, and by the use of rural development credits if permitted on such lot, subject to the general rules for FAR and use of bonuses, ~~((and))~~ TDR, and rural development credits, SMC Sections 23.49.011 through 23.49.014. Solely for the purpose of determining the amounts and types of bonus and TDR, if any, that may be used to achieve the proposed increase in chargeable floor area, the legally established continuing chargeable floor area of the existing structures on the lot shall be considered as the base FAR.

* * *

Section 34. The following subsections of Section 23.49.034 of the Seattle Municipal Code, which Section was last amended by Ordinance 112522, are amended as follows, and a new subsection G is added:

23.49.034 Modification of plazas and other features bonused under Title 24

A. The modification of plazas, shopping plazas, arcades, shopping arcades, and voluntary building setbacks (~~((which))~~that) resulted in any increase in gross floor area under Title 24 of the Seattle Municipal Code, shall be encouraged in any Downtown zone if the change makes the plaza, arcade or setback more closely conform to the (~~((requirements))~~) criteria for amenities or street level use and development standards in (~~((of))~~) this chapter. The Director shall review proposed modifications to determine whether they provide greater public benefits and are consistent with the intent of the (~~((Public Benefit Features Rule))~~) Downtown

Amenity Standards, as specified in this section. The procedure for approval of proposed modifications shall be as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, except as provided in subsection G of this section.

* * *

C. Plazas and Shopping Plazas. Modifications to plazas and shopping plazas for which increased gross floor area was granted under Title 24 shall be permitted, based on the classification of the plaza on Map 1E.

1. Type I Plazas. Type I plazas shall continue to function as major downtown open spaces. Modification of these plazas and/or reductions in plaza size shall be permitted if the Director finds that the modified or remaining plaza is consistent with the intent of the ((~~Public Benefit Features Rule~~)) Downtown Amenity Standards for urban plazas and parcel parks.

2. Type II Plazas. Type II plazas do not function as major downtown open spaces, but they shall continue to provide open space for the public. Modification of these plazas and/or reductions in plaza size shall be permitted if the Director finds that the modified or remaining plaza is consistent with the intent of the ((~~Public Benefit Features Rule~~)) Downtown Amenity Standards for urban plazas, parcel parks, and hillside terraces((~~, and rooftop gardens~~)).

D. Shopping Arcades.

1. Exterior Shopping Arcades. When street level uses are eligible for a floor area bonus in a zone in which an existing exterior shopping arcade is located, the existing shopping arcade or a portion of the existing shopping arcade

may be converted to retail sales and service uses if the conversion will result in greater conformity with the street facade development standards of the zone, and if the minimum sidewalk widths established by Section 23.49.022 are met. No bonuses shall be given for any retail space created by conversion of a shopping arcade. New retail sales and service uses shall comply with the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards for retail shopping bonuses.

2. Interior Shopping Arcades. Portions of existing interior shopping arcades may be modified and/or reduced in size, so long as any pathway which connects streets or other public open spaces is maintained at a width of at least fifteen (15) feet and it continues to allow comfortable and convenient pedestrian movement. The visual interest and the sense of space and light in the shopping arcade shall be also maintained and enhanced if possible. The ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards for shopping atriums and shopping corridors ~~((bonuses))~~ shall be used as a guideline in the review of proposed changes.

* * *

G. Optional Public Access and Signage Standards. The owner of any lot with a plaza, arcade, shopping plaza, or exterior shopping arcade for which a bonus was granted under Title 24, and which feature has not become subject to standards for amenity features under Title 23, may elect to have the signage requirements and the terms of public access and use for that feature governed by the Downtown Amenity Standards as they apply to urban plazas, as modified by this subsection G. If the owner so elects, then the hours during which such feature must be open to the

public without charge shall be as designated by the owner on signs identifying the feature, but in any event shall include the period from 7:00 AM to 11:00 PM every day, plus any other hours during which the principal structure on the lot is open. In order to make an election under this subsection G, the owner shall sign and record in the real property records a declaration in form approved by the Director. The owner then shall install and maintain signs identifying the feature as open to the public, consistent with the Downtown Amenity Standards. Such election, once made, may not be revoked or modified. The public access and signage requirements pursuant to this subsection shall be deemed conditions of any permit under which a bonus was allowed for the feature. The purpose of this subsection is to encourage public awareness and use of features bonused under Title 24, while providing for greater certainty and consistency in the rules applicable to such features. Until an election shall be made as to any such feature in compliance with this subsection G, nothing in this subsection G shall limit any obligation to allow public access or use of any such feature under the terms of any permit or Code provision.

Section 35. Section 23.49.035 of the Seattle Municipal Code, which Section was last amended by Ordinance 119484, is amended as follows:

23.49.035 Replacement and modification of public benefit features

A. All public benefit features, except (1) housing and (2) landmark performing arts theaters, shall remain for the life of the structure that includes the additional gross floor area((;)) except as otherwise specifically permitted pursuant to this section. ~~((With the foregoing exceptions, a public benefit feature may be~~

1 ~~diminished or discontinued only if the additional gross floor area permitted in return~~
2 ~~for the specific feature is permanently removed; or if the public feature is replaced~~
3 ~~by another approved public benefit feature of at least equivalent floor area value, or~~
4 ~~by buying out the equivalent floor area value of the benefit feature according to the~~
5 ~~requirements of the Public Benefit Features Rule.))~~

6 B. Unless the specified period for which a feature is to be maintained has
7 expired in accordance with the terms of this chapter, or another provision of this
8 chapter specifically otherwise provides, a public benefit feature may be diminished
9 or discontinued only if:

10 1. the feature is not housing or child care; and
11 2. a. the additional gross floor area permitted in return for the
12 specific feature is permanently removed or converted to a use that is not counted as
13 chargeable floor area; or
14 b. an amount of chargeable floor area equal to that obtained
15 by the public benefit feature to be replaced is provided pursuant to provisions for
16 granting floor area above the base FAR in this chapter.

17 ~~((B))~~ C. The terms under which use as ((low income housing or as)) a
18 landmark performing arts theater may be discontinued or diminished, and the
19 sanctions for failure to continue such use, ((are)) shall be governed by the
20 agreements and instruments executed by the City and owners of the properties on
21 which such ((housing and)) theaters are located, ((as required by applicable
22 provisions of the Land Use Code and Public Benefit Features Rule, and)) ((a))Any

such change in use shall not affect any other structure for which additional FAR was granted in return for the provision of such public benefit features.

~~((C.))~~ D. In addition to the provisions of subsections A and B, this subsection ~~((shall apply))~~ applies in Downtown zones when additional gross floor area or a floor area exemption is granted for any of the following public benefit features: Human service uses, child care centers, retail shopping, cinemas, performing arts theaters other than landmark performing arts theaters, major retail stores, and museums.

1. In the event that the occupant or operator of one (1) of the public benefit features listed in this subsection moves out of a structure, or notifies the owner of intent to move, the owner or owner's agent ~~((is responsible for notifying))~~ shall notify the Director within five (5) days of the date that notice of intent to move is given or that the occupant or operator moves out, whichever is earlier.

2. Starting from the fifth day after notice is given or that the occupant or operator moves out, whichever is first, the owner or owner's agent shall have a maximum of six (6) months to replace the use with another ~~((one which))~~ use that meets the provisions of ~~((this Code))~~ Section 23.49.011 and the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards.

3. When the public benefit feature is replaced, any portion of the gross floor area formerly occupied by that feature and not reoccupied by a replacement feature, may be either:

a. Changed to other uses ~~((which))~~ that are exempt from FAR calculations in the zone in which the structure is located; or

b. Changed to uses (~~((which))~~) that are not exempt from FAR calculations, provided that this would not cause the structure to exceed the maximum FAR limit for the zone in which it is located, and that gross floor area in an amount equivalent to the gross floor area proposed to be changed shall be achieved through provision of public benefit features, or transfer of development rights, according to the provisions of SMC Section 23.49.011 (~~((the zone in which the structure is located))~~).

4. As a condition to allowing the substitution of a feature, rather than an application to establish floor area de novo under the terms of this chapter, (~~((D))~~) during the time that the space formerly constituting the amenity feature is vacant, it shall be made available to nonprofit community and charitable organizations for events at no charge.

E. Modifications of amenity features that do not result in the diminishment or discontinuation of the feature may be permitted by the Director as a Type I decision, provided that the Director finds that the feature as modified meets the eligibility conditions in the Downtown Amenity Standards.

Section 36. Section 23.49.036 of the Seattle Municipal Code, which Section was last amended by Ordinance 120691, is amended as follows:

23.49.036 Planned community developments (PCDs).

A. Authority. Planned community developments may be permitted by the (~~((Council))~~) Director as a Type II Land Use Decision pursuant to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.

1 B. ~~((Development Guidelines))~~ Public Benefit Priorities. ~~((When a PCD is~~
2 ~~proposed by other than a City agency, the))~~ The Director shall ((review and
3 ~~approve))~~ determine public benefit priorities ((development guidelines)) for the
4 PCD. These ((guidelines)) priorities shall be ((approved)) prepared prior to
5 ~~((preparation of the detailed development program))~~ application for a Master Use
6 Permit. They shall include priorities for public benefits listed in subsection F and
7 priorities for implementing the goals of the Comprehensive Plan, including adopted
8 ~~((public and private development objectives, and promote City))~~ neighborhood
9 plans ((and policies)) for the area affected by the PCD, and a determination of
10 whether the proposed PCD may use public right-of-way area to meet the minimum
11 site size set forth in subsection E. Before the priorities are prepared, the Director
12 shall cause a public meeting to be held to identify concerns about the site and to
13 receive public input into priorities for public benefits identified in adopted
14 neighborhood plans and subsection F. Notice for the meeting shall be provided
15 pursuant to Section 23.76.011. The Director shall prepare priorities for the PCD
16 taking into account comments made at the public meeting or in writing to the
17 Director, and the criteria in this section. The Director shall distribute a copy of the
18 priorities to all those who provided addresses for this purpose at the public meeting,
19 to those who sent in comments or otherwise requested notification, and to the
20 project proponent.

21 C. A PCD shall not be permitted if the Director determines it would be
22 likely to result in a net loss of housing units or if it would result in significant
23

alteration to any designated feature of a Landmark structure, unless a Certificate of Approval for the alteration is granted by the Landmarks Preservation Board.

~~((C))~~ D. Location.

1. Planned Community Developments may be permitted in ~~((the following))~~ all Downtown zones except the Pike Market Mixed zone and the Downtown Harborfront 1 zone. ~~((:))~~

~~((1. — Downtown Office Core 1
Downtown Office Core 2
Downtown Retail Core
Downtown Mixed Commercial
Downtown Mixed Residential
International District Mixed
International District Residential
Pioneer Square Mixed
Downtown Harborfront 2.))~~

~~((2. A portion of a PCD may be located in DOC1 zones, provided that the portion located in a DOC1 zone shall be less than fifty percent (50%) of the total area of the PCD, and shall not exceed a maximum size of forty-five thousand (45,000) square feet.))~~

1 ~~2.~~~~((3-))~~ A portion of a PCD may extend into any non-downtown
2 zone(s) within the Downtown Urban Center and adjacent to a downtown zone
3 subject to the following conditions:

4 a. The ~~((adjacent))~~ provisions of this title applicable in the
5 non-downtown zone(s) regulate((s)) the density of non-residential use by floor area
6 ratio; and

7 ~~((b. The portion of a PCD project located in an adjacent zone~~
8 ~~shall not be separated from downtown by the Interstate 5 Freeway right-of-way; and~~

9 e)) b. The portion of a PCD project located in ((a)) non-
10 downtown zone(s) ((adjacent to downtown)) shall be not more than twenty percent
11 (20%) of the total area of the PCD ((within the downtown boundary)).

12 ~~((D))~~ E. Minimum Size. ((The minimum area for a PCD shall be one
13 hundred thousand (100,000) square feet, all of which shall be located within a
14 downtown zone according to subsections C1 and C2 of this section.)) A PCD shall
15 include a minimum site size of one hundred thousand (100,000) square feet within
16 one or more of the downtown zones where PCDs are permitted according to
17 subsection D1. The total area of a PCD shall be contiguous. ((The area of any
18 public right-of-way, or public right-of-way vacated less than five (5) years prior to
19 the date of application for the PCD, within or abutting a proposed PCD, shall not be
20 included in minimum area calculations, nor shall they be considered a break in
21 continuity.)) Public right-of-way shall not be considered a break in contiguity. At
22 the Director's discretion, public right-of-way area may be included in the minimum
23 area calculations if actions related to the PCD will result in significant

enhancements to the streetscape of the public right-of-way, improved transit access
and expanded transit facilities in the area, and/or significant improvement to local
circulation, especially for transit and pedestrians.

((E)) F. Evaluation of PCDs. A proposed PCD shall be evaluated on the
basis of public benefits provided, possible impacts of the project, and consistency
with the standards contained in this subsection.

1. Public Benefits. A proposed PCD shall address the priorities for
public benefits identified through the process outlined in subsection B. The PCD
shall include ((provide one (1))) three (3) or more of the following elements:

((housing,))

- a. low-income housing,
- b. townhouse development, ((services,))
- c. historic preservation,
- d. public open space, ((employment, increased public
revenue, strengthening of neighborhood character,))
- e. implementation of adopted neighborhood plans,
- f. improvements in pedestrian circulation,
- g. improvements in urban form,
- h. improvements in transit facilities, and/or
- i. other elements ((which)) that further an adopted City policy
and provide a demonstrable public benefit.

2. Potential Impacts. The Director shall evaluate the potential
impacts of a proposed PCD ((shall be evaluated,)) including, but not necessarily

1 limited to, the impacts on housing, particularly low-income housing, transportation
2 systems, parking, energy, and public services, as well as environmental factors such
3 as noise, air, light, glare, public views and water quality.

4 3. The Director may place conditions on the proposed PCD (~~((shall be~~
5 ~~reviewed for))~~ in order to make it compatib((i))le((ty)) with areas adjacent to
6 Downtown (~~((which))~~) that could be affected by the PCD.

7 4. When the proposed PCD is located in the Pioneer Square
8 Preservation District or International District Special Review District, the Board of
9 the District(s) in which the PCD is located shall review the proposal and make a
10 recommendation to the Department of Neighborhoods Director who shall make a
11 recommendation to the Director prior to the Director's (~~((recommendation to the~~
12 ~~Council))~~ decision on the PCD.

13 ((F)) G. ((Public Benefit Features)) Bonus Development in PCDs. (~~((Any~~
14 ~~public benefit feature eligible for a bonus in any downtown zone may be considered~~
15 ~~as part of a PCD in any Downtown zone where PCDs are permitted. The maximum~~
16 ~~area eligible for a bonus and the review criteria for public benefit features may be~~
17 ~~varied. The square footage of such public benefit features shall be exempt from~~
18 ~~FAR calculations. In those zones where an increase in floor area ratio is permitted~~
19 ~~through provision of public benefit features, and a bonus value has not been~~
20 ~~established for a public benefit feature, the value shall be the same as the value of~~
21 ~~the feature in the nearest zone for which a value is established.))~~ All increases in
22 floor area above the base FAR shall be consistent with provisions in Section
23 23.49.011, Floor area ratio, and the PCD process shall not result in any (~~((reduction))~~)

1 increase in the amount of chargeable floor area (~~((required to be))~~) allowed without
2 (~~((gained through))~~) use of bonuses or TDR (~~((compared to what otherwise would~~
3 ~~have been required for the development-))~~), considering all of the lots within the
4 PCD boundaries as a single lot.

5 ((G)) H. Exceptions to Standards.

6 1. Portions of a project (~~((within downtown))~~) may exceed the floor
7 area ratio permitted in the zone or zones in which the PCD is located, but the (~~((floor~~
8 ~~area ratio of))~~) maximum chargeable floor area allowed for the PCD as a whole shall
9 meet the requirements of the zone or zones in which it is located. (~~((Floor area may~~
10 ~~be transferred from a portion of a PCD in a non-downtown zone to a portion of a~~
11 ~~PCD in a downtown zone. When floor area from a portion of a PCD in a non-~~
12 ~~downtown zone is transferred to a lot in a downtown zone within the PCD project's~~
13 ~~boundary, the amount of floor area which may be transferred shall be calculated~~
14 ~~based upon the FAR and lot area of the portion of the PCD in the non-downtown~~
15 ~~zone by the. However, the FAR used shall not exceed the base FAR of the portion~~
16 ~~of the PCD in the downtown zone to which the floor area is being transferred.))~~)

17 2. Except as provided in subsection ((G))H3 of this section, any
18 requirements of this chapter may be varied through the PCD process in order to
19 provide public benefits identified in subsection F.

20 3. Exceptions to the following provisions are not permitted through
21 the PCD process:

22 a. The following provisions of Subchapter I, General
23 Standards:

1 (1) ~~((The maximum height permitted for any use in~~
2 ~~the zone))~~ Applicable height limits,

3 (2) Light and glare standards,

4 (3) Noise standards,

5 (4) Odor standards,

6 (5) Minimum sidewalk widths,

7 (6) View corridor requirements,

8 (7) Nonconforming uses,

9 (8) Nonconforming structures, when the
10 nonconformity is to one (1) of the standards listed in this subsection;

11 b. Use provisions except for provisions for principal and
12 accessory parking;

13 c. Transfer of development rights regulations;

14 d. Bonus ~~((values))~~ ratios and amounts assigned to public
15 benefit features;

16 e. Development standards of adjacent zones outside the
17 Downtown Urban Center in which a PCD may be partially located according to
18 subsection ~~((C3))~~ D2 of this section.

19 f. Provisions for allowing increases in floor area above the
20 base FAR and for allowing residential floor area above the base height limit.

21 ~~((H. For the purposes of calculating the overall density allowed for a PCD, a~~
22 ~~floor area ratio of four and one half (4 1/2) shall apply to that portion of a PCD~~
23

~~which is located in an adjacent commercial zone, pursuant to subsection C2((C3))
of this section and on which no development subject to FAR is proposed.))~~

Section 37. Section 23.49.037 of the Seattle Municipal Code, which Section was last amended by Ordinance 120691, is hereby repealed.

Section 38. Section 23.49.039 of the Seattle Municipal Code, which Section was last amended by Ordinance 120443, is hereby repealed.

Section 39. Section 23.49.041 of the Seattle Municipal Code, which Section was last amended by Ordinance 120443, is hereby repealed, except for Map 23.49.041A, which is renamed Exhibit 23.49.056 F and made part of Section 23.49.056 as amended by this ordinance.

Section 40. Subchapter I of Chapter 23.49 is amended to add the following new section:

23.49.041 Combined lot development.

When authorized by the Director pursuant to this section, lots located on the same block in DOC1 or DOC2 zones, or in DMC zones with a maximum FAR of ten (10), or lots zoned DOC1 and DMC on the same block, may be combined, whether contiguous or not, solely for the purpose of allowing some or all of the capacity for chargeable floor area on one such lot under this chapter to be used on one or more other lots, according to the following provisions:

A. Up to all of the capacity on one lot, referred to in this section as the “sending lot,” for chargeable floor area in addition to the base FAR, pursuant to Section 23.49.011 (referred to in this section as “bonus capacity”), may be used on one or more other lots, subject to compliance with all conditions to use of such

1 bonus capacity, pursuant to Sections 23.49.011-.014, as modified in this Section.

2 For purposes of applying any conditions related to amenities or features provided
3 on site under Section 23.49.013, only the lot or lots on which such bonus capacity
4 shall be used are considered to be the lot or site using a bonus. Criteria for use of
5 bonus that apply to the structure or structures shall be applied only to the
6 structure(s) on the lots using the transferred bonus capacity.

7 B. Only if all of the bonus capacity on one lot shall be used on other lots
8 pursuant to this section, there may also be transferred from the sending lot, to one or
9 more such other lots, up to all of the unused base FAR on the sending lot, without
10 regard to limits on the transfer or on use of TDR in Section 23.49.014. Such
11 transfer shall be treated as a transfer of TDR for purposes of determining remaining
12 development capacity on the sending lot and TDR available to transfer under SMC
13 23.49.014, but shall be treated as additional base FAR on the other lots, and to the
14 extent so treated shall not qualify such lots for bonus development. If less than all
15 of the bonus capacity of the sending lot shall be used on such other lots, then
16 unused base FAR on the sending lot still may be transferred to the extent permitted
17 for within-block TDR under Section 23.49.014, and if the sending lot qualifies for
18 transfer of TDR under any other category of sending lot in Chart 23.49.014A, such
19 unused base FAR may be transferred to the extent permitted for such category, but
20 in each case only to satisfy in part the conditions to use of bonus capacity, not as
21 additional base FAR.

22 C. To the extent permitted by the Director, the maximum chargeable floor
23 area for any one or more lots in the combined lot development may be increased up

1 to the combined maximum chargeable floor area under Section 23.49.011 computed
2 for all lots participating in the combined lot development. To the extent permitted
3 by the Director, and subject to subsection B of this section, the base floor area for
4 any one or more lots in the combined lot development may be increased up to the
5 combined maximum base chargeable floor area under Section 23.49.011 computed
6 for all lots participating in the combined lot development.

7 D. The Director shall allow combined lot development only to the extent
8 that the Director determines, in a Type I land use decision, that permitting more
9 chargeable floor area than would otherwise be allowed on a lot shall result in a
10 significant public benefit. In addition to features for which floor area bonuses are
11 granted, the Director may also consider the following as public benefits that could
12 satisfy this condition when provided for as a result of the lot combination:

13 1. preservation of a landmark structure located on the block or
14 adjacent blocks;

15 2. uses serving the downtown residential community, such as a
16 grocery store, at appropriate locations;

17 3. public facilities serving the Downtown population, including
18 schools, parks, community centers, human service facilities, and clinics;

19 4. transportation facilities promoting pedestrian circulation and
20 transit use, including through block pedestrian connections, transit stations and bus
21 layover facilities;

1 5. Short-term parking on blocks within convenient walking distance
2 of the retail core or other Downtown business areas where the amount of available
3 short term parking is determined to be insufficient;

4 6. a significant amount of housing serving households with a range
5 of income levels;

6 7. improved massing of development on the block that achieves a
7 better relationship with surrounding conditions, including: better integration with
8 adjacent development, greater compatibility with an established scale of
9 development, especially relative to landmark structures, or improved conditions for
10 adjacent public open spaces, designated green streets, or other special street
11 environments;

12 8. public view protection within an area; and/or

13 9. arts and cultural facilities, including a museum or museum
14 expansion space.

15 E. The fee owners of each of the combined lots shall execute an appropriate
16 agreement or instrument, which shall include the legal descriptions of each lot and
17 shall be recorded in the King County real property records. In the agreement or
18 instrument, the owners shall acknowledge the extent to which development capacity
19 on each sending lot is reduced by the use of such capacity on another lot or lots, at
20 least for so long as the chargeable floor area for which such capacity is used
21 remains on such other lot or lots. The deed or instrument shall also provide that its
22 covenants and conditions shall run with the land and shall be specifically
23 enforceable by the parties and by the City of Seattle.

F. Nothing in this Section shall allow the development on any lot in a combined lot development to exceed or deviate from height limits or other development standards.

Section 41. The following subsections of Section 23.49.042 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, are amended as follows:

23.49.042 Downtown Office Core 1, Downtown Office Core 2, and Downtown Mixed Commercial permitted uses.

The provisions of this section apply in DOC1, DOC2 and DMC zones.

* * *

C. Public Facilities.

1. Except as provided in Section 23.49.046 D2, uses in public facilities that are most similar to uses permitted outright under this chapter shall also be permitted outright subject to the same use ((~~uses~~)) regulations and development standards that govern the similar uses.

2. Essential Public Facilities. Permitted essential public facilities shall also be reviewed according to the provisions of Chapter 23.80, Essential Public Facilities.

Section 42. Section 23.49.044 of the Seattle Municipal Code, which Section was last amended by Ordinance 112777, is amended as follows:

23.49.044 Downtown Office Core 1, Downtown Office Core 2, and Downtown Mixed Commercial prohibited uses.

The following uses ~~are~~((shall be)) prohibited as both principal and accessory uses in DOC1, DOC2, and DMC zones, or where a single zone classification is specified, in zones with that classification only:

A. Drive-in businesses, except gas stations located in parking garages;

B. Outdoor storage;

C. All general and heavy manufacturing uses;

D. All salvage and recycling uses except recycling collection stations;

((and))

E. All high-impact uses; ((-))

F. In DMC zones, adult motion picture theaters and adult panorams; and

G. Principal use parking garages for long-term parking.

Section 43. Section 23.49.045 of the Seattle Municipal Code, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.045 Downtown Office Core 1, Downtown Office Core 2, and Downtown Mixed Commercial principal and accessory parking.

The provisions of this section apply in DOC1, DOC2, and DMC zones.

A. Principal Use Parking.

1. ~~((Principal use parking garages for long term parking in areas shown on Map 1((J))I may be permitted as administrative conditional uses, pursuant to Section 23.49.046. Principal use parking garages for long term parking are prohibited in other locations.~~

2.)) Principal use parking garages for short-term parking may be ~~((may be))~~ permitted as conditional uses, pursuant to Section 23.49.046.

1 ~~((3))~~ 2. In DOC1 zones, principal use long-term and short-term
2 surface parking areas are prohibited. In DOC2 and DMC zones, principal use long-
3 term and short-term surface parking areas ~~((shall be))~~ may be permitted as
4 administrative conditional uses in areas shown on Map 1I, ((, except that temporary
5 principal use surface parking areas may be permitted as conditional uses)) pursuant
6 to Section 23.49.046.

7 B. Accessory Parking.

8 1. Accessory parking garages for both long-term and short-term
9 parking are ~~((shall be))~~ permitted outright, up to the maximum parking limit
10 established by Section ~~((23.49.016, Parking quantity requirements))~~ 23.49.019,
11 Parking quantity, access and screening/landscaping requirements.

12 2. Accessory surface parking areas are ~~((shall not be))~~; ~~((permitted,~~
13 ~~except that temporary accessory surface parking areas may be permitted as~~
14 ~~conditional uses pursuant to Section 23.49.046.))~~

15 a. Permitted outright in areas shown on Map 1I when
16 containing a total of twenty (20) or fewer parking spaces on the lot; and

17 b. Permitted as administrative conditional uses pursuant to
18 Section 23.49.046 when located in areas shown on Map 1I on a lot containing more
19 than twenty (20) parking spaces; and

20 c. Prohibited in areas not shown on Map 1I.

21 3. Temporary principal and accessory surface parking areas may be
22 permitted as conditional uses pursuant to Section 23.49.046.

Section 44. The following subsections of Section 23.49.046 of the Seattle Municipal Code, which Section was last amended by Ordinance 120443, are amended as follows:

23.49.046 Downtown Office Core 1, Downtown Office Core 2, and Downtown Mixed Commercial conditional uses and Council decisions.

The provisions of this section apply in DOC1, DOC2 and DMC zones.

* * *

B. Principal use parking garages (~~((for long-term parking in areas designated on Map 1J, and))~~)for short-term parking (~~((at any location,))~~) may be permitted as administrative conditional uses, if the Director finds that:

1. Traffic from the garage will not have substantial adverse effects on peak hour traffic flow to and from Interstate 5 or on traffic circulation in the area around the garage; and

2. The vehicular entrances to the garage are located so that they will not disrupt traffic or transit routes; and

3. The traffic generated by the garage will not have substantial adverse effects on pedestrian circulation.

C. Temporary surface ((-)) parking areas (~~((which))~~ that were in existence prior to January 1, 1985 or are located on lots vacant on or before January 1, 1985, or on lots (~~((which))~~ that become vacant as a result of a City-initiated abatement action, and surface parking areas meeting the requirements of Section 23.49.045, may be permitted as administrative conditional uses according to the following standards:

1 1. The standards stated for garages in subsection B of this section are
2 met; and

3 2. The lot is screened and landscaped according to the provisions of
4 Section ~~((23.49.020, Screening and landscaping of surface parking areas))~~

5 23.49.019 Parking quantity, access and screening/landscaping requirements; and

6 ~~((3. At least twenty (20) percent of the long term spaces shall be set
7 aside for carpools, according to the provisions of Section 23.49.016B2; and~~

8 ~~((4))~~ 3. ~~((The permit))~~ Permits for temporary surface parking areas
9 may be issued for a maximum of two (2) years. Renewal of a permit for a
10 temporary ~~((surface parking))~~ surface parking area ~~is((shall be))~~ subject to the
11 following:

12 a. Renewals are ~~((shall be))~~ permitted only for those
13 temporary ~~((surface parking))~~ surface parking areas that ~~((which))~~ were in existence
14 on or before January 1, 1985 or are located on lots vacant on or before January 1,
15 1985. A permit for ~~((a))~~ temporary ~~((surface parking))~~ surface parking on a lot that
16 ~~((which))~~ became vacant as a result of a City-initiated abatement action shall not be
17 renewed, and

18 b. Renewal shall be for a maximum of two (2) years and shall
19 be granted only if, through an administrative ~~((subject to))~~ conditional use
20 ~~((approval))~~ process, ~~((T))~~ the Director ~~((must))~~ finds that the temporary ~~((surface-~~
21 ~~parking))~~ surface parking area continues to meet applicable criteria; and

22 ~~((5))~~ c. The applicant shall post a bond in an amount adequate
23 to cover the costs of removing the physical evidence of the parking area, such as

curbcuts, paving, and parking space striping, when the permit expires. Landscaping need not be removed when the permit expires; and

((6))d. Signs at each entrance to the parking area stating the ending date of the permit shall be required.

D. Public Facilities.

1. Uses in public facilities that are most similar to uses permitted as a conditional use under this chapter shall also be permitted as a conditional use subject to the same conditional use criteria that govern the similar uses.

2. The City Council may waive or modify applicable development standards or conditional use criteria for those uses in public facilities that are similar to uses permitted outright or permitted as a conditional use according to the provisions of Chapter 23.76, Subchapter III, Council Land Use Decisions, with public projects considered as Type IV quasi-judicial decisions and City facilities considered as Type V legislative decisions.

3. Other Permitted Uses in Public Facilities. Unless specifically prohibited, uses in public facilities that are not similar to uses permitted outright or permitted as a conditional use under this chapter may be permitted by the City Council. The City Council may waive or modify development standards or conditional use criteria according to the provisions of Chapter 23.76, Subchapter III, Council Land Use Decisions, with public projects considered as Type IV quasi-judicial decisions and City facilities considered as Type V legislative decisions.

4. Expansion of Uses in Public Facilities.

1 a. Major Expansion. Major expansions may be permitted to
2 uses in public facilities allowed in subsections D1, D2 and D3 above according to
3 the same provisions and procedural requirements as described in these subsections.
4 A major expansion of a public facility use occurs when the expansion that is
5 proposed would not meet development standards or exceed either seven hundred
6 fifty (750) square feet or ten (10) percent of its existing area, whichever is greater,
7 including gross floor area and areas devoted to active outdoor uses other than
8 parking.

9 b. Minor Expansion. When an expansion falls below the
10 major expansion threshold level, it is a minor expansion. Minor expansions may be
11 permitted to uses in public facilities allowed in subsections D1, D2 and D3 above
12 according to the provisions of Chapter 23.76, Procedures for Master Use Permits
13 and Council Land Use Decisions, for a Type I Master Use Permit when the
14 development standards of the zone in which the public facility is located are met.

15 * * *

16 F. Helistops and heliports may be permitted as Council conditional uses
17 according to the following criteria:

18 1. The helistop or heliport is for the takeoff and landing of
19 helicopters ~~((which))~~that serve a public safety, news gathering or emergency
20 medical care function and, in the case of heliports, services provided for those
21 helicopters; is part of a City and regional transportation plan approved by the City
22 Council and is a public facility; or is part of a City and regional transportation plan
23

approved by the City Council and is not within two thousand (2,000) feet of a residential zone.

2. The helistop or heliport is located so as to minimize adverse physical environmental impacts on lots in the surrounding area, and particularly on residentially zoned lots, public parks, and other areas where substantial public gatherings may be held, such as Safeco Field and Qwest Field,~~((the Kingdome,))~~ the Pike Place Market, and the Westlake Mall.

3. The lot is of sufficient size that the operations of the helistop or heliport and the flight paths of the helicopters can be buffered from other uses in the surrounding area.

4. Open areas and landing pads shall be hard-surfaced.

5. The helistop or heliport meets all federal requirements including those for safety, glide angles, and approach lanes.

* * *

Section 45. Section 23.49.056 of the Seattle Municipal Code, which Section was last amended by Ordinance 121477, is amended by moving Map 23.49.041A and renaming it Exhibit 23.49.056 F, and also as follows:

23.49.056 Downtown Office Core 1, Downtown Office Core 2, and Downtown Mixed Commercial street façade and street setback requirements.

Standards for the street facades of structures are established in this section for DOC1, DOC2, and DMC zones, for the following elements:

Minimum facade heights;

Setback limits;

Facade transparency;
Blank facade limits;
~~((Screening of parking;))~~
Street trees~~((:))~~ ; and
Setback and Landscaping Requirements in the Denny Triangle Urban

Village.

These standards ~~((shall))~~ apply to each lot line that abuts a street designated on Map 1F~~((G))~~ as having a pedestrian classification, except lot lines of open space TDR sites. The standards for each street frontage shall vary according to the pedestrian classification of the street on Map 1F~~((G))~~, and whether property line facades are required by Map 1H ~~((HK))~~. Standards for street landscaping and setback requirements in subsection G of this section also apply along lot lines abutting streets in the Denny Triangle Urban Village, as shown on Exhibit 23.49.056 F.

A. Minimum Facade Height.

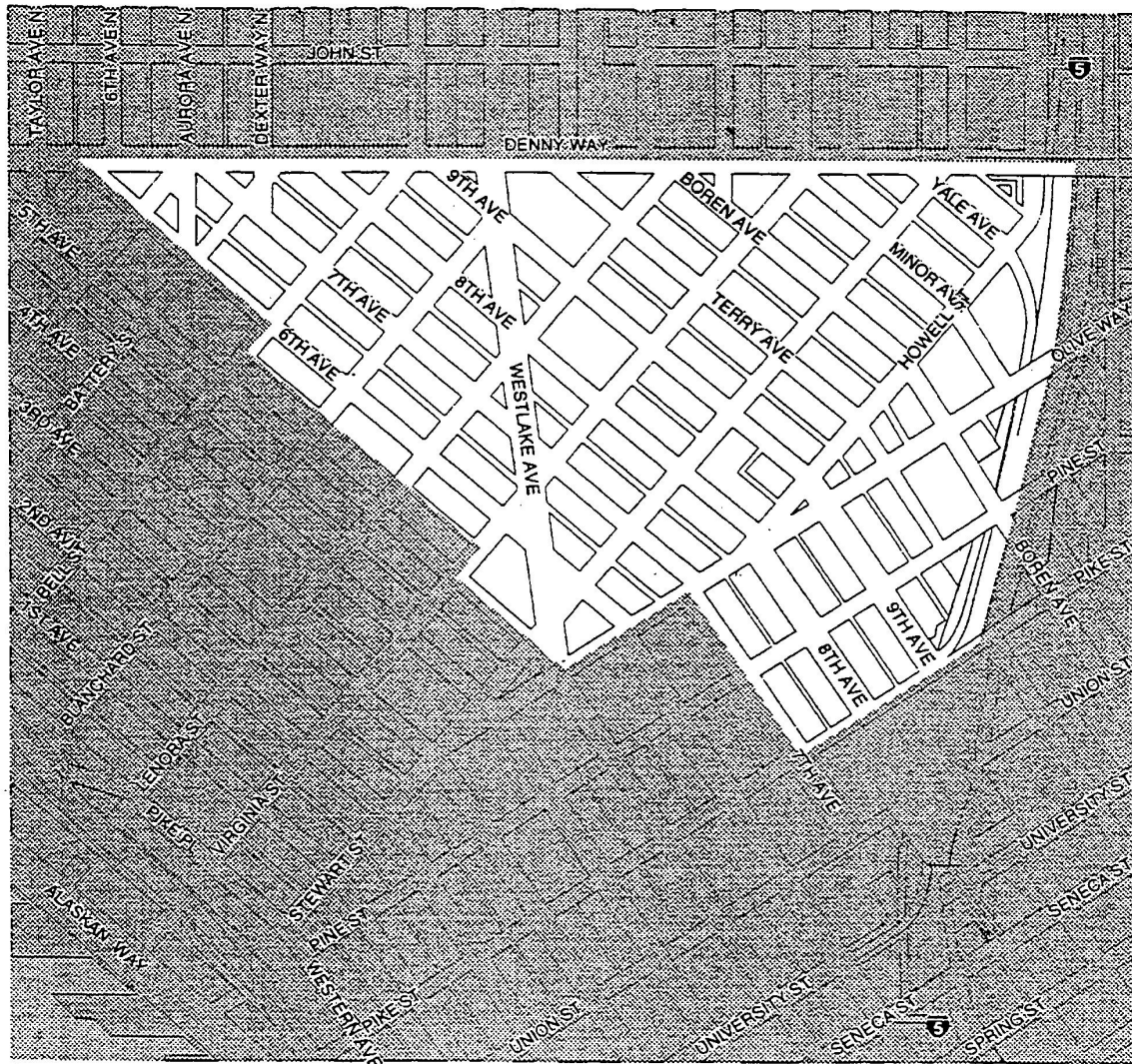
1. Minimum facade height~~(s)~~ are prescribed ~~((shall be as described))~~ in the chart below, and Exhibit 23.49.056 A, but minimum facade heights shall not apply when all portions of the structure are lower than the elevation of the required minimum facade height listed below.

~~((Class I Pedestrian Streets and All Streets Where Property line Facades are Required Minimum Facade Height*))~~
~~((35 feet))~~

~~((Class II Pedestrian Minimum Facade Height*))~~
~~((25 feet))~~

<u>Street Classification</u>	<u>Minimum Façade Height* within Designated Zone</u>
<u>Streets Requiring Property Line Facades</u>	<u>DOC1, DOC 2, DMC: 35 feet</u>
<u>Class I Pedestrian Streets</u>	<u>DOC 1, DOC 2: 35 feet</u> <u>DMC: 25 feet</u>
<u>Class II Pedestrian Streets</u>	<u>DOC 1, DOC 2: 25 feet</u> <u>DMC: 15 feet</u>
<u>Designated Green Streets</u>	<u>DOC1, DOC 2, DMC: 25 feet</u>

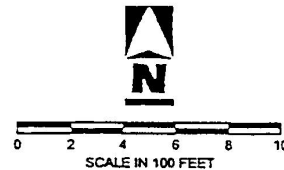
*Except as provided in subsection A2 regarding view corridor requirements.



DENNY TRIANGLE

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Exhibit 23.49.056 F

2. On designated view corridors specified in Section 23.49.024, the minimum facade height is((shall be)) the maximum height permitted in the required setback, when it is less than the minimum facade height required in subsection A1 of this section.

B. Facade Setback Limits.

1 1. Setback Limits for Property Line Facades. The following setback
2 limits shall apply to all streets designated on Map 1H((K)) as requiring property line
3 facades.

4 a. The facades of structures fifteen (15) feet or less in height
5 shall be located within two (2) feet of the street property line.

6 b. Structures greater than fifteen (15) feet in height shall be
7 governed by the following criteria:

8 (1) No setback limits shall apply up to an elevation of
9 fifteen (15) feet above sidewalk grade.

10 (2) Between the elevations of fifteen (15) and thirty-
11 five (35) feet above sidewalk grade, the facade shall be located within two (2) feet
12 of the street property line, except that:

13 i. Any exterior public open space that satisfies
14 the ((~~Public Benefit Features Rule~~)) Downtown Amenity Standards, whether it
15 receives a bonus or not, and any outdoor common recreation area required for
16 residential uses, shall not be considered part of the setback.

17 ii. Setbacks between the elevations of fifteen
18 (15) and thirty-five (35) feet above sidewalk grade at the property line shall be
19 permitted according to the following standards, as depicted in Exhibit 23.49.056 B:

20 -- The maximum setback shall be ten
21 (10) feet.

22 -- The total area of a facade that is
23 set back more than two (2) feet from the street property line shall not exceed forty

(40) percent of the total facade area between the elevations of fifteen (15) and thirty-five (35) feet.

-- No setback deeper than two (2) feet shall be wider than twenty (20) feet, measured parallel to the street property line.

-- The facade of the structure shall return to within two (2) feet of the street property line between each setback area for a minimum of ten (10) feet. Balcony railings and other nonstructural features or walls shall not be considered the façade of the structure.

c. When sidewalk widening is required by Section 23.49.022, setback standards shall be measured to the line established by the new sidewalk width rather than the street property line.

2. General Setback Limits. The following setback limits ~~((shall))~~ apply on streets not requiring property line facades, as shown on Map 1H ~~((K-~~ Except when the entire structure is fifteen (15) feet or less in height, the setback limits shall apply to the facade between an elevation of fifteen (15) feet above sidewalk grade and the minimum facade height established in subsection A of this section and Exhibit 23.49.056 C. When the structure is fifteen (15) feet or less in height, the setback limits shall apply to the entire street facade.)):

a. The portion of a structure subject to setback limits shall vary according to the structure height and required minimum façade height, as follows:

1 (1) Except as provided in subsection C2a(3) of this
2 section, when the structure is greater than 15 feet in height, the setback limits apply
3 to the facade between an elevation of fifteen (15) feet above sidewalk grade and the
4 minimum facade height established in subsection A of this section and Exhibit
5 23.49.056 C.

6 (2) When the entire structure is fifteen (15) feet or
7 less in height, the setback limits apply to the entire street facade.

8 (3) When the minimum facade height is fifteen (15)
9 feet, the setback limits apply to the portion of the street facade that is fifteen (15)
10 feet or less in height.

11 ~~((a))~~b. The maximum area of all setbacks between the lot line
12 and facade along each street frontage of a lot shall not exceed the area derived by
13 multiplying the averaging factor by the width of the street frontage of the structure
14 along that street (see Exhibit 23.49.056 D). The averaging factor shall be five (5) on
15 Class I pedestrian streets and ten (10) on Class II pedestrian streets and designated
16 green streets. ~~((Parking shall not be located between the facade and the street lot~~
17 ~~line.))~~

18 ~~((b))~~c. The maximum width, measured along the street
19 property line, of any setback area exceeding a depth of fifteen (15) feet from the
20 street property line shall not exceed eighty (80) feet, or thirty (30) percent of the lot
21 frontage on that street, whichever is less. (See Exhibit 23.49.056 D.)

22 ~~((e))~~d. The maximum setback of the facade from the street
23 property lines at intersections shall be ten (10) feet. The minimum distance the

facade must conform to this limit shall be twenty (20) feet along each street. (See Exhibit 23.49.056 E.)

~~((d))~~e. Any exterior public open space that ~~((satisfies))~~ meets the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards, whether it receives a bonus or not, and any outdoor common recreation area required for residential uses, shall not be considered part of a setback. (See Exhibit 23.49.056 C.)

~~((e))~~f. When sidewalk widening is required by Section 23.49.022, setback standards shall be measured to the line established by the new sidewalk width rather than the street property line.

C. Facade Transparency Requirements.

1. Facade transparency requirements ~~((shall))~~ apply to the area of the facade between two (2) feet and eight (8) feet above the sidewalk, except that when the slope along the street frontage of the façade exceeds seven and one-half (7 ½) percent, the transparency requirements apply to the area of the façade between four (4) feet and eight (8) feet above sidewalk grade. Only clear or lightly tinted glass in windows, doors, and display windows is~~((shall be))~~ considered to be transparent. Transparent areas shall allow views into the structure or into display windows from the outside.

2. Façade transparency requirements do not apply to portions of structures in residential use.

~~((2))~~3. When the transparency requirements of this subsection are inconsistent with the glazing limits in the Energy Code, this subsection shall apply.

1 ((3))4. Transparency requirements are((shall be)) as follows:

2 a. Class I pedestrian streets and designated green streets: A
3 minimum of sixty (60) percent of the street level facade shall be transparent.

4 b. Class II pedestrian streets: A minimum of thirty (30)
5 percent of the street level facade shall be transparent.

6 c. Where the slope along the street frontage of the facade
7 exceeds seven and one-half (7 1/2) percent, the required amount of transparency
8 shall be reduced to ((forty-five (45))) fifty (50) percent on Class I pedestrian streets
9 and designated green streets and ((twenty-two (22))) twenty-five (25) percent on
10 Class II pedestrian streets.

11 D. Blank Facade Limits.

12 1. General Provisions.

13 a. Blank facade limits(~~shall~~) apply to the area of the facade
14 between two (2) feet and eight (8) feet above the sidewalk, except that where the
15 slope along the street frontage of the facade exceeds seven and one-half (7 1/2)
16 percent, blank facade limits apply to the area of the facade between four (4) feet and
17 eight (8) feet above sidewalk grade.

18 b. Any portion of a facade ((~~which~~)) that is not transparent
19 shall be considered to be a blank facade.

20 c. Blank facade limits do not apply to portions of structures
21 in residential use.

22 2. Blank Facade Limits for Class I Pedestrian Streets and designated
23 Green Streets.

1 a. Blank facades shall be no more than fifteen (15) feet wide
2 except for garage doors which may exceed fifteen (15) feet. Blank façade width
3 may be increased to thirty (30) feet if the Director determines that the facade is
4 enhanced by architectural detailing, artwork, landscaping, or similar features that
5 have visual interest. The width of garage doors shall be limited to the width of the
6 driveway plus five (5) feet.

7 b. Any blank segments of the facade shall be separated by
8 transparent areas at least two (2) feet wide.

9 c. The total of all blank facade segments, including garage
10 doors, shall not exceed forty (40) percent of the street facade of the structure on
11 each street frontage, or ~~((fifty five (55)))~~ fifty (50) percent ~~((of))~~ if the slope of the
12 street frontage ~~((if))~~ of the facade exceeds seven and one-half (7 1/2) percent.

13 3. Blank Facade Limits for Class II Pedestrian Streets.

14 a. Blank facades shall be no more than thirty (30) feet wide,
15 except for garage doors, which may exceed thirty (30) feet. Blank façade width may
16 be increased to sixty (60) feet if the Director in a Type I decision determines that
17 the facade is enhanced by architectural detailing, ~~((art work))~~ artwork, landscaping,
18 or similar features that have visual interest. The width of garage doors shall be
19 limited to the width of the driveway plus five (5) feet.

20 b. Any blank segments of the facade shall be separated by
21 transparent areas at least two (2) feet wide.

22 c. The total of all blank facade segments, including garage
23 doors, shall not exceed seventy (70) percent of the street facade of the structure on

each street frontage; or ~~((seventy-eight (78)))~~ seventy-five (75) percent if the slope of the street frontage of the facade exceeds seven and one-half (7 1/2) percent.

~~((E))((Screening of Parking.))~~

~~1. Parking located at or above street level in a garage shall be screened according to the following requirements:~~

~~a. On Class I pedestrian streets parking shall not be permitted at street level unless separated from the street by other uses, provided that garage doors need not be separated.~~

~~b. On Class II pedestrian streets, parking shall be permitted at street level when at least thirty (30) percent of the street frontage of the parking area, excluding that portion of the frontage area occupied by garage doors, is separated from the street by other uses. The facade of the separating uses shall be subject to the transparency and blank wall standards for Class I pedestrian streets in subsections C and D. The remaining parking shall be enhanced by architectural detailing, artwork, landscaping, or similar visual interest features.~~

~~c. The perimeter of each floor of parking garages above street level shall have an opaque screen at least three and one half (3 1/2) feet high.~~

~~2. Surface parking areas shall be screened and landscaped pursuant to Section 23.49.020, Screening and landscaping of surface parking areas.))~~

* * *

F. Setback and Landscaping Requirements for Lots Located Within the Denny Triangle Urban Village.

1 1. Landscaping in the Street Right-of-Way for All Streets Other
2 Than Those With Green Street Plans Approved by Director's Rule. All new
3 development in DMC zones in the Denny Triangle Urban Village, as shown on
4 Exhibit 23.49.056 F, shall provide landscaping in the sidewalk area of the street
5 right-of-way, except on streets with a Green Street plan approved by Director's
6 Rule. The square footage of landscaped area provided shall be at least one and one-
7 half (1 1/2) times the length of the street property line (in linear feet). The following
8 standards apply to the required landscaped area:

9 a. The landscaped area shall be at least eighteen (18) inches
10 wide and shall be located in the public right-of-way along the entire length of the
11 street property line, except for building entrances, vehicular access or other
12 connections between the sidewalk and the lot, provided that the exceptions may not
13 exceed fifty (50) percent of the total length of the street property line(s).

14 b. As an alternative to locating the landscaping at the street
15 property line, all or a portion of the required landscaped area may be provided in
16 the sidewalk area within five (5) feet of the curbline.

17 c. Landscaping provided within five (5) feet of the curbline
18 shall be located and designed in relation to the required street tree planting and be
19 compatible with use of the curb lane for parking and loading.

20 d. All plant material shall be planted directly in the ground or
21 in permanently installed planters where planting in the ground is not feasible. A
22 minimum of fifty (50) percent of the plant material shall be perennial.

23 2. Landscaping on a Designated Green Street

1 Where required landscaping is on a designated Green Street, or on a street
2 with urban design and/or landscaping guidelines promulgated by Seattle
3 Department of Transportation, the planting shall conform to those provisions.

4 3. Landscaping in Setbacks.

5 a. In the Denny Triangle Urban Village, as shown on Exhibit
6 23.49.056 F, at least twenty (20) percent of the total square footage of all areas
7 abutting the street property line that are not covered by a structure, have a depth of
8 ten (10) feet or more from the street property line and are larger than three hundred
9 (300) square feet, shall be landscaped. Any area under canopies or marquees is
10 considered uncovered. Any setback provided to meet the minimum sidewalk widths
11 established by Section 23.49.022 is exempt from the calculation of the area to be
12 landscaped.

13 b. All plant material shall be planted directly in the ground or
14 in permanently installed planters where planting in the ground is not feasible. A
15 minimum of fifty (50) percent of the plant material shall be perennial and shall
16 include trees when a contiguous area, all or a portion of which is landscaped
17 pursuant to subsection G1a above, exceeds six hundred (600) square feet.

18 4. Terry and 9th Avenues Green Street Setbacks.

19 a. In addition to the requirements of subsections G2 and G3
20 of this section, a two (2) foot wide setback from the street property line is required
21 along the Terry and 9th Avenue Green Streets within the Denny Triangle Urban
22 Village as shown on Exhibit 23.49.056 F. The Director may allow averaging of the
23

1 setback requirement of this subsection to provide greater conformity with an
2 adopted Green Street plan.

3 b. Fifty (50) percent of the setback area must be landscaped.

4 Section 46. Section 23.49.058 of the Seattle Municipal Code, which Section
5 was last amended by Ordinance 120967, is amended as follows:

6 **23.49.058 Downtown Office Core 1, Downtown Office Core 2, and Downtown**
7 **Mixed Commercial upper-level development standards.**

8 ~~((The regulations in this section apply to all structures in which any floor~~
9 ~~above an elevation of one hundred twenty five (125) feet above the sidewalk~~
10 ~~exceeds fifteen thousand (15,000) square feet. For structures with separate,~~
11 ~~individual towers, the fifteen thousand (15,000) square foot threshold will be~~
12 ~~applied to each tower individually.~~

13 ~~A. Coverage Limits. On streets designated on Map 1G as having a~~
14 ~~pedestrian classification, coverage limit areas are established at two (2) elevations:~~

15 ~~1. Between an elevation of one hundred twenty five (125) feet and~~
16 ~~two hundred forty (240) feet above the adjacent sidewalk, the area within twenty~~
17 ~~(20) feet of each street property line and sixty (60) feet of intersecting street~~
18 ~~property lines (see Exhibit 23.49.058 A), is established as the coverage limit area.~~

19 ~~2. Above an elevation of two hundred forty (240) feet above the~~
20 ~~adjacent sidewalk, the area within forty (40) feet of each street property line and~~
21 ~~sixty (60) feet of intersecting street property lines (see Exhibit 23.49.058 A), is~~
22 ~~established as the coverage limit area.~~

3. The percentage of the coverage limit area that may be covered by
 a portion of a structure is as follows:

Elevation	Lots With One Street Frontage	Lots With Two or More Street Frontages	
		Lots 45,000 Sq. Ft. or Less in Size	Lots Greater Than 45,000 Sq. Ft. in Size
126' to 240'	60%	40%	20%
Above 240'	50%	40%	20%

4. To qualify as uncovered area, at least half the area required to be
 uncovered shall be contiguous and shall have a minimum depth of fifteen (15) feet.

5. To meet the coverage limits, a lot may be combined with one or
 more abutting lots, whether occupied by existing structures or not, provided that:

a. The coverage of all structures on the lots meets the limits
 set in this subsection A; and

b. The fee owners of the abutting lot(s) execute a deed or
 other agreement, that is recorded with the title to the lots, that restricts future
 development so that in combination with the other lots, the coverage limits shall not
 be exceeded.

B. Maximum Facade Lengths. Maximum facade lengths shall be established
 for facades above an elevation of one hundred twenty five (125) feet above the
 adjacent sidewalk. This maximum length shall be measured parallel to each street
 property line of streets designated on Map 1G as having a pedestrian classification
 and shall apply to any portion of a facade, including projections such as balconies,
 that is located within fifteen (15) feet of street property lines.

~~1. The maximum length of facades above an elevation of one hundred twenty five (125) feet shall be as follows:~~

Elevation	Lots With One Street Frontage	Lots With Two or More Street Frontages	
		Lots 40,000 Sq. Ft. or Less in Size	Lots Greater Than 40,000 Sq. Ft. in Size
126' to 240'	120'	120'	120'
Above 240'	90'*	120'	90'

* Above a height of two hundred forty (240) feet, for each half (1/2) percent

~~reduction of coverage in the coverage limit area from the requirements established in subsection A of this section, the maximum facade length may be increased by one (1) foot up to a maximum of one hundred twenty (120) feet.~~

~~2. To be considered a separate facade for the purposes of determining the maximum facade length established in subsection B1, any portion of a facade above an elevation of one hundred twenty five (125) feet that is less than fifteen (15) feet from a street property line, shall be separated from any similar portion of the facade by at least sixty (60) feet of facade that is set back at least fifteen (15) feet from a street property line. (See Exhibit 23.49.058 B).)~~

The provisions of this section apply in DOC 1, DOC 2, and DMC zones. For purposes of this section, a "tower" is a portion of a structure, not including rooftop features that would be permitted above the applicable height limit pursuant to Section 23.49.008, in which portion all gross floor area in each story is horizontally contiguous, and which portion is above (i) a height of eighty-five (85) feet in a structure that has any nonresidential use above a height of sixty-five feet or does not have residential use above a height of one hundred sixty (160) feet; or (ii) in any structure not described in clause (i), a height determined as follows:

1 (1) For a structure on a lot that includes an entire block front
2 or that is on a block front with no other structures, sixty-five (65) feet; or

3 (2) For a structure on any other lot, the height of the façade
4 closest to the street property line of the existing structure on the same block front
5 nearest to that lot, but if the nearest existing structures are equidistant from that lot,
6 then the height of the higher such façade; but in no instance shall the height exceed
7 eighty-five (85) feet or be required to be less than sixty-five (65) feet.

8
9 A. The requirements of subsections 23.49.058B and C apply to:

10 1. All structures 160 feet in height or less in which any story above
11 an elevation of eighty-five (85) feet above the adjacent sidewalk exceeds fifteen
12 thousand (15,000) square feet. For structures with separate towers, the fifteen
13 thousand (15,000) square foot threshold applies to each tower individually; and

14 2. Portions of structures in non-residential use above a height of 160
15 feet in which any story above an elevation of eighty-five (85) feet exceeds fifteen
16 thousand (15,000) square feet. For structures with separate towers, the fifteen
17 thousand (15,000) square foot threshold applies to each tower individually.

18 B. Façade Modulation.

19 1. Façade modulation is required above a height of eighty-five (85)
20 feet above the sidewalk for any portion of a structure located within fifteen (15) feet
21 of a street property line. No modulation is required for portions of a façade set back
22 fifteen (15) feet or more from a street property line.

2. The maximum length of a facade without modulation is prescribed in Chart 23.49.058A. This maximum length shall be measured parallel to each street property line, and shall apply to any portion of a facade, including projections such as balconies, that is located within fifteen (15) feet of street property lines.

<u>Chart 23.49.058A</u>	
<u>Elevation</u>	<u>Maximum length of un-modulated façade within 15' of street property line</u>
<u>0 to 85 feet</u>	<u>No limit</u>
<u>86 to 160 feet</u>	<u>155 feet</u>
<u>161 to 240 feet</u>	<u>125 feet</u>
<u>241 to 500 feet</u>	<u>100 feet</u>
<u>Above 500 feet</u>	<u>80 feet</u>

3. Any portion of a facade exceeding the maximum length of façade prescribed on Chart 23.49.058A shall be set back a minimum of fifteen (15) feet from the street property line for a minimum distance of sixty (60) feet before any other portion may be within 15 feet of the street property line.

C. Maximum tower width. On lots where the width and depth of the lot each exceed two hundred (200) feet, the maximum façade width for portions of a building above two hundred forty (240) feet shall be one hundred forty-five (145) feet along the general north/south axis of a site (parallel to the Avenues), and this portion of the structure shall be separated horizontally from any other portion of a structure on the lot above 145 feet by at least eighty (80) feet at all points.

D. Tower floor area limits and tower width limits for portions of structures in residential use. The requirements of this subsection D apply only to structures

that include portions in residential use above a height of one hundred and sixty (160) feet.

1. Maximum limits on average residential gross floor area per story and maximum residential floor area per story of towers are prescribed in Chart 23.49.058D1.

Chart 23.49.058D1
Average residential gross floor area per story and maximum residential gross floor area per story of a tower*

<u>(1) Zone</u>	<u>(2) Average residential gross floor area limit o per story of a tower if height does not exceed the base height limit for residential use</u>	<u>(3) Average residential gross floor area limit per story of a tower when height exceeds the base height limit for residential use</u>	<u>(4) Maximum residential floor area of any story in a tower</u>
<u>DMC 240/290-400 and DMC 340/290-400</u>	<u>10,000 sq. ft.</u>	<u>10,700 sq. ft.</u>	<u>11,500 sq. ft.</u>
<u>DOC2</u>	<u>15,000 sq. ft.</u>	<u>12,700 sq. ft.</u>	<u>16,500 sq. ft.</u>
<u>DOC1</u>	<u>15,000 sq. ft.</u>	<u>13,800 sq. ft.</u>	<u>16,500 sq. ft.</u>

*For the height at which a "tower" begins, see the definition at the beginning of this Section 23.49.058.

a. For structures that do not exceed the base height limit for residential use, each tower is subject to the average floor area per story limits specified in column (2) on Chart 23.49.058D1.

b. For structures that exceed the base height limit for residential use (which requires that the applicant obtain bonus residential floor area pursuant to Section 23.49.015), the average residential gross floor area per story of each tower is subject to the applicable maximum limit specified in column (3) on Chart 23.49.058D1.

1 c. In no instance shall the residential gross floor area of any
2 story in a tower exceed the applicable maximum limit specified in column (4) on
3 Chart 23.49.058D1.

4 d. Unoccupied space provided for architectural interest
5 pursuant to Section 23.49.008B shall not be included in the calculation of gross
6 floor area.

7 2. Maximum Tower Width.

8 a. In DMC zones, the maximum façade width for portions of
9 a building above eight-five (85) feet along the general north/south axis of a site
10 (parallel to the Avenues) shall be one-hundred twenty (120) feet or eighty (80)
11 percent of the width of the lot measured on the Avenue, which ever is less, except
12 that:

13 (1) On a lot where the limiting factor is the eighty
14 (80) percent width limit, the façade width is one-hundred twenty (120) feet, when at
15 all elevations above a height of eighty-five (85) feet, no more than fifty (50) percent
16 of the area of the lot located within fifteen (15) feet of the street lot line(s) is
17 occupied by the structure; and

18 (2) On lots smaller than ten thousand seven hundred
19 (10,700) square feet that are bounded on all sides by street right-of-way, the
20 maximum façade width shall be one hundred twenty (120) feet.

1 b. In DOC1 and DOC2 zones, the maximum façade width for
2 portions of a building above eight-five (85) feet along the general north/south axis
3 of a site (parallel to the Avenues) shall be one hundred forty-five (145) feet.

4 c. the maximum width of tower structures may be increased
5 if lot is combined with one (1) or more abutting lots, whether occupied by existing
6 structures or not, provided that:

7 (1). All lots have frontage on the same street;

8 (2). Any existing structure does not exceed a height of
9 one hundred twenty-five (125) feet;

10 (3). The coverage and spacing of both the proposed
11 and any existing structures meets the limits established in this Section; and

12 (4). The fee owners of the abutting lot(s) execute and
13 record a covenant that restricts future development on the abutting lot to a
14 maximum height of one hundred twenty-five (125) feet for the life of the proposed
15 structure; and that precludes the use of the abutting lot(s) in combination with any
16 other lots for purposes of meeting the requirements of this section.

17 d. The projection of unenclosed decks and balconies, and
18 architectural features such as cornices, shall be disregarded in calculating the
19 maximum width of a façade.

20 E. Tower spacing for all structures over 160 feet in height in those DMC
21 zoned areas specified below:

1 1. For the purposes of this section, no separation is required:

2 a. between structures on different blocks, except as may be
3 required by view corridor or designated green street setbacks, or

4 b. from a structure on the same block that is not located in a
5 DMC zone; or

6
7 c. from a structure allowed pursuant to the Land Use Code in
8 effect prior to the effective date of this ordinance.

9 2. Except as otherwise provided in this subsection E, in the DMC
10 240'/290-400' zone located between Stewart Street, Union Street, Third Avenue and
11 First Avenue, if any part of a tower exceeds one hundred sixty (160) feet in height,
12 then all portions of the tower that are above one hundred and twenty-five (125) feet
13 in height shall be separated by a minimum of two hundred (200) feet from any
14 portion of any other existing tower above one hundred and twenty-five (125) feet in
15 height.

16 3. Except as otherwise provided in this subsection E, on DMC
17 zoned sites with maximum height limits of more than one hundred sixty (160) feet
18 located in the Belltown Urban Center Village, as shown on Exhibit 23.49.058E, if
19 any part of a tower exceeds one hundred sixty (160) feet in height, then all portions
20 of the tower that are above one hundred and twenty-five (125) feet in height must
21 be separated by a minimum of eighty (80) feet from any portion of any other
22 existing tower above one hundred and twenty-five (125) feet in height.

1 4. Except as otherwise provided in this subsection E, on DMC zoned
2 sites with maximum height limits of more than one hundred sixty (160) feet located
3 in the Denny Triangle Urban Center Village, as shown on Exhibit 23.49.056F, if
4 any part of a tower exceeds one hundred sixty (160) feet in height, then all portions
5 of the tower that are above one hundred and twenty-five (125) feet in height must
6 be separated by a minimum of sixty (60) feet from any portion of any other existing
7 tower above one hundred and twenty-five (125) feet in height.

8
9 5. The projection of unenclosed decks and balconies, and
10 architectural features such as cornices, shall be disregarded in calculating tower
11 separation.

12 6. If the presence of an existing tower would preclude the addition of
13 another tower proposed on the same block, as a special exception, the Director may
14 waive or modify the tower spacing requirements of this section to allow a maximum
15
16 of two towers to be located on the same block that are not separated by at least the
17 minimum spacing required in subsections E2, E3 and E4, other than towers
18 described in subsection E1. The Director shall determine that issues raised in the
19 design review process related to the presence of the additional tower have been
20 adequately addressed before granting any exceptions to tower spacing standards.
21 The Director shall consider the following factors in determining whether such an
22 exception shall be granted:

1 a. potential impact of the additional tower on adjacent
2 residential structures, located within the same block and on adjacent blocks, in
3 terms of views, privacy, and shadows;

4 b. potential public benefits that offset the impact of the
5 reduction in required separation between towers, including the provision of public
6 open space, designated green street or other streetscape improvements, preservation
7 of landmark structures, and provision of neighborhood commercial services, such as
8 a grocery store, or community services, such as a community center or school;

9 c. potential impact on the public environment, including
10 shadow and view impacts on nearby streets and public open spaces;

11 d. design characteristics of the additional tower in terms of
12 overall bulk and massing, façade treatments and transparency, visual interest, and
13 other features that may offset impacts related to the reduction in required separation
14 between towers;

15 e. the City's goal of encouraging residential development
16 downtown; and

17 f. the feasibility of developing the site without an exception
18 from the tower spacing requirement.

19
20 7. For purposes of this section, an “existing” tower is either:

21 (a) a tower that is physically present, except as
22 provided below in this subsection E6, or
23

1 (b) a proposed tower for which a Master Use Permit
2 decision that includes approval of the Design Review element has been issued,
3 unless and until either (i) the Master Use Permit issued pursuant to such decision
4 expires or is cancelled, or the related application is withdrawn by the applicant,
5 without the tower having been constructed; or (ii) a ruling by a hearing examiner or
6 court of competent jurisdiction reversing or vacating such decision, or determining
7 such decision or the Master Use Permit issued thereunder to be invalid, becomes
8 final and no longer subject to judicial review.

9 A tower that is physically present shall not be considered “existing” if the owner of
10 the lot where such tower is located shall have applied to the Director for a permit to
11 demolish such tower and such application shall be pending or a permit issued for
12 such demolition shall be in effect, but any permit decision or permit for any
13 structure that would not be permitted under this section if such tower were
14 considered “existing” may be conditioned upon the actual demolition of such tower.

15 F. Upper Level Setbacks

16 1. When a lot in a DMC zone is across a street from the Pike Place
17 Market Historical District as shown on Map 1K, a continuous upper-level setback
18 of fifteen (15) feet shall be provided on all street frontages across from the
19 Historical District above a height of sixty-five (65) feet.

20 2. When a lot in a DMC or DOC2 zone is located on a designated
21 green street, a continuous upper-level setback of fifteen (15) feet shall be provided
22 on the street frontage abutting the green street at a height of forty-five (45) feet.

Section 47. Section 23.49.060 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, is hereby repealed.

Section 48. Section 23.49.062 of the Seattle Municipal Code, which Section was last amended by Ordinance 112777, is hereby repealed.

Section 49. Section 23.49.064 of the Seattle Municipal Code, which Section was last amended by Ordinance 121476, is hereby repealed.

Section 50. Section 23.49.066 of the Seattle Municipal Code, which Section was last amended by Ordinance 120443, is hereby repealed.

Section 51. Section 23.49.076 of the Seattle Municipal Code, which Section was last amended by Ordinance 121477, is hereby repealed.

Section 52. Section 23.49.078 of the Seattle Municipal Code, which Section was last amended by Ordinance 120443, is hereby repealed.

Section 53. Section 23.49.094 of the Seattle Municipal Code, which Section was last amended by Ordinance 112519, is amended as follows:

23.49.094 Downtown Retail Core, principal and accessory parking.

A. Principal Use Parking.

1. Principal use parking garages for long-term parking ~~are~~shall be prohibited.

2. Principal use parking garages for short-term parking ~~may~~shall be permitted as administrative conditional uses pursuant to Section

23.49.096.~~((either be:))~~

1 (~~(A. Permitted outright when the garage contains only short-~~
2 ~~term parking spaces for which additional floor area is granted pursuant to Section~~
3 ~~23.49.100; or~~

4 ~~B. Permitted as conditional uses pursuant to Section~~
5 ~~23.49.096.))~~

6 3. Principal use surface parking areas for both long and short term
7 parking are (~~(shall be)~~) prohibited, except that temporary principal use surface
8 parking areas may be permitted as conditional uses pursuant to Section 23.49.096.

9 B. Accessory Parking.

10 1. Accessory parking garages for both long-term and short-term
11 parking are (~~(shall be)~~) permitted outright, up to the maximum parking limit
12 established by Section (~~(23.49.016, Parking quantity requirements)~~) 23.49.019,
13 Parking quantity, access and screening/landscaping requirements.

14 2. Accessory surface parking areas are prohibited(~~(shall not be~~
15 ~~permitted)~~), except that temporary accessory surface parking (~~(areas)~~) may be
16 permitted as administrative conditional uses pursuant to Section 23.49.096.

17 Section 54. Subsections D and G of Section 23.49.096 of the Seattle
18 Municipal Code, which Section was last amended by Ordinance 120443, are
19 amended as follows:

20 **23.49.096 Downtown Retail Core, conditional uses and Council decisions.**

21 * * *

22 D. Temporary surface(~~(-)~~) parking areas (~~(which)~~)that were in existence
23 prior to January 1, 1985 or are located on lots vacant on or before January 1, 1985,

1 or that are located on lots (~~((which))~~)that become vacant as a result of a City-initiated
2 abatement action, may be permitted as administrative conditional uses according to
3 the following standards:

4 1. The standards stated for garages in subsection C of this section are
5 met; and

6 2. The lot is screened and landscaped according to the provisions of
7 Section 23.49.019(~~((23.49.020))~~), Parking quantity, access and screening/landscaping
8 requirements (~~((Screening and landscaping of surface parking areas))~~); and

9 ~~((3. At least twenty (20) percent of the long term spaces shall be set~~
10 ~~aside for carpools, according to the provisions of Section ((23.49.016 B2))~~
11 ~~23.49.046 C3; and))~~

12 ~~((4))~~ 3. ~~((The p))~~ Permits for temporary surface parking areas may be
13 issued for a maximum of two (2) years. Renewal of a permit for a temporary
14 ~~((surface parking))~~ surface parking area (~~((shall be))~~) is subject to the following:

15 a. Renewals (~~((shall be))~~) are permitted only for those
16 temporary surface parking areas (~~((which))~~) that were in existence on or before
17 January 1, 1985 or are located on lots vacant on or before January 1, 1985. A permit
18 for a temporary surface~~((-))~~ parking area on a lot (~~((which))~~) that became vacant as a
19 result of a City-initiated abatement action shall not be renewed; and

20 b. Renewal shall be for a maximum of two (2) years and shall
21 be (~~((subject to))~~) granted only if, through an administrative conditional use approval
22 process, ~~(((-T))~~) the Director (~~((must))~~) finds that the temporary surface~~((-))~~ parking
23 area continues to meet applicable criteria; and

~~((5.))~~ c. The applicant shall post a bond in an amount adequate to cover the costs of removing the physical evidence of the parking area, such as curbcuts, paving and parking space striping, when the permit expires. Landscaping need not be removed when the permit expires; and

((6)) 4. Signs at each entrance to the parking area stating the ending date of the permit shall be required.

* * *

G. Helistops and heliports may be permitted as Council conditional uses according to the following criteria:

1. The helistop or heliport is for takeoff and landing of helicopters ((which)) that serve a public safety, news gathering or emergency medical care function and, in the case of heliports, services provided for those helicopters; is part of a City and regional transportation plan adopted by the City Council and is a public facility; or is part of a City and regional transportation plan adopted by the City Council and is not within two thousand (2,000) feet of a residential zone.

2. The helistop or heliport is located so as to minimize adverse physical environmental impacts on lots in the surrounding area, and particularly on residentially zoned lots, public parks, and other areas where substantial public gatherings may be held, such as Safeco Field and Qwest Field, ~~((the Kingdome,))~~ the Pike Place Market and the Westlake Mall.

3. The lot is of sufficient size that the operations of the helistop or heliport and the flight paths of the helicopters can be buffered from other uses in the surrounding area.

4. Open areas and landing pads shall be hard-surfaced.

5. The helistop or heliport meets all federal requirements including those for safety, glide angles and approach lanes.

* * *

Section 55. The following subsections of Section 23.49.106 of the Seattle Municipal Code, which Section was last amended by Ordinance 121477, are amended as follows:

23.49.106 Downtown Retail Core, street façade requirements.

* * *

B. Facade Setback Limits.

1. The facades of structures less than or equal to fifteen (15) feet in height shall be located within two (2) feet of the street property line.

2. Structures greater than fifteen (15) feet in height shall be governed by the following criteria:

a. No setback limits shall apply up to an elevation of fifteen (15) feet above sidewalk grade.

b. Between the elevations of fifteen (15) and thirty-five (35) feet above sidewalk grade, the facade shall be located within two (2) feet of the street property line, except that setbacks between the elevations of fifteen (15) and thirty-five (35) feet above sidewalk grade at the property line shall be permitted according to the following standards (see Exhibit 23.49.106 A):

(1) The maximum setback shall be ten (10) feet.

(2) The total area of ~~((of))~~ the portion of the facade between the elevations of fifteen (15) feet and thirty-five (35) feet above sidewalk grade at the street property line that is set back more than two (2) feet from the street property line shall not exceed forty (40) percent of the total facade area between the elevations of fifteen (15) feet and thirty-five (35) feet.

(3) No setback deeper than two (2) feet shall be wider ~~((that))~~ than twenty (20) feet, measured parallel to the street property line.

(4) The facade of the structure shall return to within two (2) feet of the street property line between each setback area for a minimum of ten (10) feet. Balcony railings and other nonstructural features or walls shall not be considered the facade of the structure.

3. When sidewalk widening is required by Section 23.49.022, setback standards shall be measured to the line established by the new sidewalk width rather than the street property line.

* * *

~~E. ((Screening of Parking. Parking located at or above street level in parking garages shall be screened according to the following requirements:~~

~~1. Parking shall not be permitted at street level unless separated from the street by other uses, provided that garage doors need not be separated.~~

~~2. The perimeter of each floor of parking garages above street level shall have an opaque screen at least three and one-half (3 1/2) feet high.))~~ Reserved.

* * *

Section 56. Section 23.49.108 of the Seattle Municipal Code, which Section was enacted by Ordinance 120443, is amended as follows:

23.49.108 Downtown Retail Core, upper-level development standards.

A. Structure setbacks of fifteen (15) feet from the street property line are required for all portions of a building at or above a height of eighty-five (85) feet above the adjacent sidewalk, ~~((except for structures that are subject to the limits in subsection B.))~~ (See Exhibit 23.49.108A.)

~~((B. Structures on either of the two half blocks abutting the east side of 2nd Avenue, between Pine and Union Streets, that exceed one hundred fifty (150) feet in height pursuant to Section 23.49.008A, are subject to the following:~~

~~1. Maximum Coverage Limit. A maximum coverage limit of seventy (70) percent of the area of the lot applies to all portions of structures above a height of eighty-five (85) feet above the adjacent sidewalk.~~

~~2. Structure Setbacks. Structure setbacks of fifteen (15) feet from the street property line are required for all portions of a building at or above a height of eighty-five (85) feet above the adjacent sidewalk on east/west streets only.~~

~~3. Maximum Facade Length. Along 2nd Avenue all portions of the structure facade within fifteen (15) feet of the street property line and above eighty-five (85) feet in height above the adjacent sidewalk are subject to maximum facade length provisions as follows:~~

~~a. The maximum length of a facade is ninety (90) feet.~~

~~b. To be considered a separate facade for the purposes of determining the maximum facade length established in this subsection, any portion~~

~~of an applicable facade must be separated by at least sixty (60) feet of facade,
measured parallel to the Second Avenue street property line, that is set back at least
fifteen (15) feet from the Second Avenue street property line (See Exhibit
23.49.108 B.))~~

Section 57. Section 23.49.116 of the Seattle Municipal Code, which Section
was last amended by Ordinance 118672, is hereby repealed.

Section 58. Section 23.49.118 of the Seattle Municipal Code, which Section
was last amended by Ordinance 112777, is hereby repealed.

Section 59. Section 23.49.120 of the Seattle Municipal Code, which Section
was last amended by Ordinance 120443, is hereby repealed.

Section 60. Section 23.49.122 of the Seattle Municipal Code, which
Section was last amended by Ordinance 120443, is hereby repealed.

Section 61. Section 23.49.126 of the Seattle Municipal Code, which
Section was last amended by Ordinance 120443, is hereby repealed.

Section 62. Section 23.49.130 of the Seattle Municipal Code, which
Section was last amended by Ordinance 112303, is hereby repealed.

Section 63. Section 23.49.134 of the Seattle Municipal Code, which
Section was last amended by Ordinance 121477, is hereby repealed.

Section 64. Section 23.49.136 of the Seattle Municipal Code, which Section
was last amended by Ordinance 120443, is hereby repealed.

Section 65. Subsection B of Section 23.49.146 of the Seattle Municipal
Code, which Section was last amended by Ordinance 121196, is amended as
follows:

23.49.146 Downtown Mixed Residential, principal and accessory parking.

B. Accessory Parking.

1. Accessory parking garages for both long-term and short-term parking ~~are((shall be))~~ permitted outright, when located on the same lot as the use ~~((which))that~~ they serve, up to the maximum parking limit established by Section ~~((23.49.016, Parking quantity requirements))~~ 23.49.019, Parking quantity, access and screening/landscaping requirements. Parking garages providing accessory parking for residential uses, which include~~((s))~~ the residential portion of live-work units, located on another lot may be permitted as conditional uses pursuant to Section 23.49.148. Parking garages providing accessory parking for nonresidential uses located on another lot ~~are((shall be))~~ prohibited.

2. Accessory surface parking areas ~~are((shall be))~~:

- a. Prohibited in DMR/R areas;
- b. Permitted outright in DMR/C areas when containing twenty (20) or fewer parking spaces; or
- c. Permitted as a conditional use in DMR/C areas when containing more than twenty (20) parking spaces, pursuant to Section 23.49.148.

Section 66. Subsection C of Section 23.49.148 of the Seattle Municipal Code, which Section was last amended by Ordinance 119484, is amended as follows:

23.49.148 Downtown Mixed Residential, conditional uses and Council decisions.

* * *

C. Accessory surface((-)) parking areas, where permitted as an administrative conditional use by Section 23.49.146, and temporary principal surface((-)) parking areas(~~((, which))~~) that were in existence prior to January 1, 1985 or are(~~(as)~~) located on lots vacant on or before January 1, 1985, or on lots ~~((which))~~ that become vacant as a result of a City-initiated abatement action, may be permitted as conditional uses in DMR/C areas if the Director finds that:

1. Traffic from the parking area will not have substantial adverse effects on traffic circulation in the surrounding areas; and

2. The vehicular entrances to the parking area are located so that they will not disrupt traffic or transit routes; and

3. The traffic generated by the parking area will not have substantial adverse effects on pedestrian circulation; and

4. The parking area is screened and landscaped according to the provisions of Section ~~((23.49.020, Screening and landscaping of surface parking areas))~~ 23.49.019, Parking quantity, access and screening/landscaping requirements; and

~~((5.))~~ For temporary principal surface((-)) parking areas, permits may be issued for a maximum of two (2) years. ~~((:~~

a. ~~At least twenty (20) percent of the long-term spaces shall be set aside for carpools, according to the provisions of Section ((23.49.016 B2))~~ 23.49.046 C3, and

b. ~~The permit may be issued for a maximum of two (2) years.~~) Renewal of a permit for a temporary surface((-)) parking area shall be subject to the following:

~~((1))~~ a. Renewals ~~((shall be))~~ are permitted only for those temporary surface((-)) parking areas ~~((which))~~ that were in existence on or before January 1, 1985 or located on lots vacant on or before January 1, 1985.

~~((Renewal of a))~~ A permit for ~~((a))~~ temporary surface((-)) parking ~~((area))~~ on a lot ~~((which))~~ that became vacant as a result of a City-initiated abatement action shall not be renewed; and

~~((2))~~ b. Renewal shall be for a maximum of two (2) years and shall be granted only if, through an administrative ~~((subject to))~~ conditional use ~~((approval))~~ process. ~~((The director))~~ the Director ~~((must))~~ finds that the temporary surface((-)) parking area continues to meet applicable criteria; and

c. The applicant shall post a bond in an amount adequate to cover the costs of removing the physical evidence of the parking area, such as curbcuts, paving, and parking space striping, when the permit expires. Landscaping need not be removed when the permit expires, and

d. Signs at each entrance to the parking area stating the ending date of the permit shall be required.

* * *

Section 67. The introductory subsection and other following subsections of Section 23.49.162 of the Seattle Municipal Code, which Section was last amended by Ordinance 121477, are amended as follows:

23.49.162 Downtown Mixed Residential, street façade requirements.

Standards for the facades of structures are established for the following elements:

Minimum facade heights;

Setback limits;

Facade transparency;

Blank facade limits; and

~~((Screening of parking;))~~

Landscaping.

These standards shall apply to each lot line that abuts a street designated on Map 1~~((G))~~F as having a pedestrian classification, except lot lines of open space TDR sites. The standards on each street frontage shall vary according to the pedestrian classification of the street on Map 1~~F~~((G)), and whether property line facades are required by Map 1~~H~~((I)).

* * *

B. Facade Setback Limits.

1. Setback Limits for Property Line Facades. The following setback limits shall apply to all streets designated on Map 1~~H~~((I)) as requiring property line facades:

1 a. The facades of structures fifteen (15) feet or less in height
2 shall be located within two (2) feet of the street property line.

3 b. Structures greater than fifteen (15) feet in height shall be
4 governed by the following ~~((criteria))~~ standards:

5 (1) No setback limits shall apply up to an elevation of
6 fifteen (15) feet above sidewalk grade.

7 (2) Between the elevations of fifteen (15) and thirty-
8 five (35) feet above sidewalk grade, the facade shall be located within two (2) feet
9 of the street property line, except that:

10 i. Any exterior public open space that satisfies
11 the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards, whether it
12 receives a bonus or not, and any outdoor common recreation area required for
13 residential uses, shall not be considered part of a setback.

14 ii. Setbacks between the elevations of fifteen
15 (15) and thirty-five (35) feet above sidewalk grade at the property line shall be
16 permitted according to the following standards~~((:))~~ (See Exhibit 23.49.162 B.):

17 (a) The maximum setback shall be ten (10)
18 feet.

19 (b) The total area of a facade that is set back
20 more than two (2) feet from the street property line shall not exceed forty (40)
21 percent of the total facade area between the elevations of fifteen (15) and thirty-five
22 (35) feet.

(c) No setback deeper than two (2) feet shall be wider than twenty (20) feet, measured parallel to the street property line.

(d) The facade of the structure shall return to within two (2) feet of the street property line between each setback area for a minimum of ten feet (10'). Balcony railings and other nonstructural features or walls shall not be considered the facade of the structure.

c. When sidewalk widening is required by Section 23.49.022, setback standards shall be measured to the line established by the new sidewalk width rather than the street property line.

2. General Setback Limits. The following setback limits shall apply on streets not requiring property line facades as shown on Map 1H((F)). Except when the entire structure is fifteen (15) feet or less in height, or when the minimum facade height established in subsection A of this section is fifteen (15) feet, the setback limits shall apply to the facade between an elevation of fifteen (15) feet above sidewalk grade and the minimum facade height established in subsection A of this section (see Exhibit 23.49.162 C). When the structure is fifteen (15) feet or less in height, the setback limits shall apply to the entire street facade. When the minimum facade height is fifteen (15) feet, the setback limits shall apply to the portion of the street facade that is fifteen (15) feet or less in height.

a. The maximum area of all setbacks between the lot line and façade shall be limited according to an averaging technique. The maximum area of all setbacks along each street frontage of a lot shall not exceed the area determined by multiplying the averaging factor by the width of the street frontage of the

1 structure along the street. (See Exhibit 23.49.162 D.) The averaging factor shall be
2 five (5) on Class I pedestrian streets, twenty (20) on Class II pedestrian streets, and
3 thirty (30) on designated green streets. Parking shall not be located between the
4 facade and the street lot line.

5 b. The maximum width, measured along the street property
6 line, of any setback area exceeding a depth of fifteen (15) feet from the street
7 property line shall not exceed eighty (80) feet, or thirty (30) percent of the lot
8 frontage on that street, whichever is less. (See Exhibit 23.49.162D.)

9 c. The maximum setback of the facade from the street
10 property line at intersections (~~((shall be))~~) is ten (10) feet. The minimum distance the
11 façade must conform to under this limit (~~((shall be))~~) is twenty (20) feet along each
12 street. (See Exhibit 23.49.162E.)

13 d. Any exterior public open space that satisfies the (~~((Public~~
14 ~~Benefit Features Rule))~~) Downtown Amenity Standards, whether it receives a bonus
15 or not, and any outdoor common recreation area required for residential uses, shall
16 not be considered part of a setback. (See Exhibit 23.49.162C.)

17 e. When sidewalk widening is required by Section 23.49.022,
18 setback standards shall be measured to the line established by the new sidewalk
19 width rather than the street property line.

20 C. Facade Transparency Requirements.

21 1. Facade transparency requirements (~~((shall))~~) apply to the area of the
22 facade between two (2) feet and eight (8) feet above the sidewalk, except that where
23 the slope along the street frontage of the façade exceeds seven and one-half (7 ½)

1 percent, the façade transparency requirements apply to the area of the façade
2 between four (4) feet and eight (8) feet above sidewalk grade. Only clear or lightly
3 tinted glass in windows, doors, and display windows is~~((shall be))~~ considered to be
4 transparent. Transparent areas shall allow views into the structure or into display
5 windows from the outside.

6 2. Facade transparency requirements do~~((shall))~~ not apply to portions
7 of structures in residential use.

8 3. When the transparency requirements of this subsection are
9 inconsistent with the glazing limits in the Energy Code, this subsection
10 applies~~((shall apply))~~.

11 4. Transparency requirements are~~((shall be))~~ as follows:

12 a. Class I pedestrian streets: A minimum of sixty (60) percent
13 of the street-level facade shall be transparent.

14 b. Class II pedestrian streets and designated green streets: A
15 minimum of thirty (30) percent of the street-level facade shall be transparent.

16 c. When the slope of the street frontage of the facade exceeds
17 seven and one-half (7 1/2) percent, the required amount of transparency shall be
18 reduced to ~~((forty-five (45)))~~ fifty (50) percent on Class I pedestrian streets and
19 ~~((twenty-two (22)))~~ twenty-five (25) percent on Class II pedestrian streets and
20 designated green streets.

21 D. Blank Facade Limits.

22 1. General Provisions.

1 a. Blank facade limits (~~((shall))~~) apply to the area of the facade
2 between two (2) feet and eight (8) feet above the sidewalk, except where the slope
3 along the street frontage of the façade exceeds seven and one-half (7 ½) percent, in
4 which case the blank façade limits apply to the area of the façade between four (4)
5 feet and eight (8) feet above sidewalk grade.

6 b. Any portion of a facade that (~~((which))~~) is not transparent is
7 (~~((shall be))~~) considered to be a blank facade.

8 c. Blank facade limits do (~~((shall))~~) not apply to portions of
9 structures in residential use.

10 2. Blank Facade Limits for Class I Pedestrian Streets.

11 a. Blank facades shall be limited to segments fifteen (15) feet
12 wide, except for garage doors which may exceed fifteen (15) feet. Blank facade
13 width may be increased to thirty (30) feet if the Director determines that the facade
14 is enhanced by architectural detailing, artwork, landscaping, or similar features that
15 have visual interest. The width of garage doors shall be limited to the width of the
16 driveway plus five (5) feet.

17 b. Any blank segments of the facade shall be separated by
18 transparent areas at least two (2) feet wide.

19 c. The total of all blank facade segments, including garage
20 doors, shall not exceed forty (40) percent of the street facade of the structure on
21 each street frontage; or (~~((fifty-five (55)))~~) fifty (50) percent if the slope of the street
22 frontage of the facade exceeds seven and one-half (7 1/2) percent.

3. Blank Facade Limits for Class II Pedestrian Streets and
Designated Green Streets.

a. Blank facades shall be limited to segments thirty (30) feet wide, except for garage doors which may exceed thirty (30) feet. Blank facade width may be increased to sixty (60) feet if the Director determines that the facade is enhanced by architectural detailing, artwork, landscaping, or similar features that have visual interest. The width of garage doors shall be limited to the width of the driveway plus five (5) feet.

b. Any blank segments of the facade shall be separated by transparent areas at least two (2) feet wide.

c. The total of all blank facade segments including garage doors, shall not exceed seventy (70) percent of the street facade of the structure on each street frontage; or ~~((seventy-eight (78)))~~ seventy-five (75) percent if the slope of the street frontage of the facade exceeds seven and one-half (7 1/2) percent.

~~E. ((Screening of Parking.~~

~~1. Parking located at or above street level in a garage shall be screened according to the following requirements:~~

~~a. On Class I pedestrian streets and green streets, parking shall not be permitted at street level unless separated from the street by other uses, provided that garage doors need not be separated.~~

~~b. On Class II pedestrian streets and green streets, parking shall be permitted at street level when at least thirty (30) percent of the street frontage of the parking area, excluding that portion of the frontage occupied by~~

garage doors, is separated from the street by other uses. The facade of the separating uses shall be subject to the transparency and blank wall standards for Class I pedestrian streets in subsection D2. The remaining parking shall be screened from view at street level and the street facade shall be enhanced by architectural detailing, artwork, landscaping, or similar visual interest features.

e. The perimeter of each floor of parking garages above street level shall have an opaque screen at least three and one half (3 1/2) feet high.

2. Surface parking areas shall be screened and landscaped pursuant to Section ((23.49.020, Screening and landscaping of surface parking area)).

Reserved.

* * *

Section 68. Subsection C of Section 23.49.164 of the Seattle Municipal Code, which Section was last amended by Ordinance 114079, is amended as follows:

23.49.164 Downtown Mixed Residential, maximum wall dimensions.

* * *

C. Housing Option.

1. On lots with structures that ((which)) contained low- ((or moderate)) income housing on or before the effective date of ((the)) ordinance 114079 ((codified in this section)), and that ((which)) meet the requirements of subsection C4, the maximum length of portions of structures above an elevation of sixty-five (65) feet that ((which)) are located less than twenty (20) feet from a street ((lot))property line shall not exceed one hundred twenty (120) feet per block front.

1 This maximum length shall be measured parallel to the street property line. Portions
2 of structures, measured parallel to the street ~~((lot))~~property line, ~~that ((which))~~ are
3 located twenty (20) feet or more from the street ~~((lot))~~property line, shall have no
4 maximum limit.

5 2. When the housing option is used, no portions of the structure may
6 be located in the area within twenty (20) feet of the intersection of street property
7 lines between elevations of sixty-five (65) and one hundred twenty-five (125) feet.

8 3. When the housing option is used, each floor in portions of
9 structures between elevations of sixty-five (65) and one hundred twenty-five (125)
10 feet shall have a maximum gross floor area of twenty-five thousand (25,000) square
11 feet or the lot coverage limitation whichever is less.

12 4. In order to use the housing option, housing on the lot shall be
13 subject to an agreement with the City ~~that((which))~~ contains the following
14 conditions and any other provisions necessary to ~~((insure))~~ensure compliance:

15 a. The demolition or change of use of the housing shall be
16 prohibited for not less than ~~((forty (40)))~~ fifty (50) years from the date a final
17 certificate of occupancy is issued for the commercial development on the lot; and

18 b. If the housing is or was rental housing on or before the
19 effective date of ~~((this o))~~Ordinance 114079, it shall be used as rental housing for
20 not less than ~~((forty (40)))~~ fifty (50) years from the date a final certificate of
21 occupancy is issued for the commercial development of the lot; and

22 c. The structure will be brought up to and maintained in
23 conformance with the Housing and Building Maintenance Code; and

d. Housing that is or was low-income housing on or before the effective date of ~~((this))~~ ordinance 114079, ~~((#))~~ shall be maintained as low-income housing ~~((, and all other units shall be used as moderate-income housing))~~ for not less than ~~((forty (40)))~~ fifty (50) years from the date a final certificate of occupancy is issued for the commercial development on the lot.

e. Housing that~~((which))~~ is preserved according to the provisions of this section shall not qualify for a downtown housing bonus or for transfer of development rights.

Section 69. Subsection A of Section 23.49.306 of the Seattle Municipal Code, which Section was last amended by Ordinance 112303, is amended as follows:

23.49.306 Downtown Harborfront 1, parking.

Parking located at or above grade shall be screened according to the following requirements:

A. Parking where permitted on dry land at street level shall be screened according to the provisions of Section 23.49.019, Parking quantity, access and screening/landscaping requirements. ~~((23.49.020, Screening and landscaping of surface parking areas.))~~

* * *

Section 70. Subsections C and F of Section 23.49.324 of the Seattle Municipal Code, which Section was last amended by Ordinance 119484, is amended as follows:

23.49.324 Downtown Harborfront 2, conditional uses.

* * *

C. ~~((Surface parking))~~ Surface parking areas where permitted as an administrative conditional use by Section 23.49.322, and temporary surface parking areas located on lots vacant on or before January 1, 1985, or on lots which become vacant as a result of City-initiated abatement action, may be permitted as conditional uses according to the following standards:

1. The standards stated for garages in subsection B of this section are met; and

2. The lot is screened and landscaped according to the provisions of Section ~~((23.49.020, Screening and landscaping of surface parking areas))~~ 23.49.019, Parking quantity, access and screening/landscaping requirements; and

3. For temporary ~~((surface parking))~~ surface parking areas:

a. At least twenty (20) percent of the long-term spaces shall be set aside for carpools, according to the provisions of Section ~~((23.49.016 B2))~~ 23.49.046 C3; and

b. The permit may be issued for a maximum of two (2) years.

c. Renewal of a permit for a temporary ~~((surface parking))~~ surface parking area shall be subject to the following:

(1) Renewals shall be permitted only for those temporary ~~((surface parking))~~ surface parking areas that ~~((which))~~ were in existence on or before January 1, 1985 or located on lots vacant on or before January 1, 1985.

A permit for a temporary ~~((surface parking))~~ surface parking area on a lot ~~((which))~~

1 that became vacant as a result of a City-initiated abatement action shall not be
2 renewed; and

3 (2) Renewal shall be for a maximum of two (2) years
4 and shall be subject to conditional use approval. The Director must find that the
5 temporary ((~~surface parking~~))surface parking area continues to meet applicable
6 criteria; and

7 d. The applicant shall post a bond in an amount adequate to
8 cover the costs of removing the physical evidence of the parking area such as curb
9 cuts, paving and parking space striping, when the permit expires. Landscaping need
10 not be removed when the permit expires; and

11 e. Signs at each entrance to the parking area stating the
12 ending date of the permit shall be required.

13 * * *

14 F. Helistops and heliports may be permitted as Council conditional uses
15 according to the following criteria:

16 1. The helistop or heliport is for takeoff and landing of helicopters
17 which serve a public safety, news gathering or emergency medical care function
18 and, in the case of heliports, services provided for those helicopters; is part of a City
19 and regional transportation plan approved by the City Council and is a public
20 facility; or is part of a City and regional transportation plan approved by the City
21 Council and is not within two thousand (2,000) feet of a residential zone.

22 2. The helistop or heliport is located so as to minimize adverse
23 physical environmental impacts on lots in the surrounding area, and particularly on

1 residentially zoned lots, public parks, and other areas where substantial public
2 gatherings may be held, such as Safeco Field and Qwest Field,~~((the Kingdome,))~~
3 the Pike Place Market, and the Westlake Mall.

4 3. The lot is of sufficient size that the operations of the helistop or
5 heliport and the flight paths of the helicopters can be buffered from other uses in the
6 surrounding area.

7 4. Open areas and landing pads shall be hard-surfaced.

8 5. The helistop or heliport meets all federal requirements including
9 those for safety, glide angles, and approach lanes.

10 * * *

11 Section 71. The introductory subsection and the following lettered
12 subsections of Section 23.49.332 of the Seattle Municipal Code, which Section was
13 last amended by Ordinance 121477, are amended as follows:

14 **23.49.332 Downtown Harborfront 2, street façade requirements.**

15 Standards for the facades of structures at street level are established for the
16 following elements:

17 Minimum facade heights;

18 Setback limits;

19 Facade transparency;

20 Blank facade limits; and

21 ~~((Screening of parking;))~~

22 Street trees.

These standards shall apply to each lot line that abuts a street designated on Map 1((J))E as having a pedestrian classification. The standards for each street frontage shall vary according to the pedestrian classification of the street on Map 1((J))E.

* * *

B. Facade Setback Limits.

1. Except when the entire structure is less than or equal to fifteen (15) feet in height, or when the minimum facade height established in subsection A of this section is fifteen (15) feet, the setback limits shall apply to the facade between an elevation of fifteen (15) feet above sidewalk grade and the minimum facade height established in subsection A of this section (and see Exhibit 23.49.332B). When the structure is less than or equal to fifteen (15) feet in height, the setback limits shall apply to the entire street facade. When the minimum facade height is fifteen (15) feet, the setback limits shall apply to the portion of the street facade ~~that ((which))~~ is fifteen (15) feet or less in height.

2. The maximum area of all setbacks between the lot line and façade along each street frontage of a lot shall not exceed the area determined by multiplying the averaging factor times the width of the street frontage of the lot along that street (see Exhibit 23.49.332C). The averaging factor shall be thirty (30) on both Class II pedestrian streets and designated green streets (~~((parks))~~). Parking shall not be located between the facade and the street property(~~((lot))~~) line.

3. The maximum width, measured along the street property line, of any setback area exceeding a depth of fifteen (15) feet from the street property line

shall not exceed eighty (80) feet, or thirty (30) percent of the lot frontage on that street, whichever is less. (See Exhibit 23.49.332 C.)

4. The maximum setback of the facade from the street property line at intersections shall be ten (10) feet. The minimum distance the facade must conform to this limit shall be twenty (20) feet along each street. (See Exhibit 23.49.332 D.)

5. Any exterior public open space that ~~((which))~~ satisfies the ~~((Public Benefit Features Rule))~~ Downtown Amenity Standards, whether it receives a bonus or not, and any outdoor common recreation area required for residential uses, shall not be considered part of a setback. (See Exhibit 23.49.332 B.)

6. When sidewalk widening is required by Section 23.49.022, setback standards shall be measured to the line established by the new sidewalk width rather than the street property line.

C. Facade Transparency Requirements.

1. Facade transparency requirements ~~((shall))~~ apply to the area of the facade between two (2) feet and eight (8) feet above the sidewalk, except that where the slope along the street frontage of the facade exceeds seven and one-half (7 ½) percent, the facade transparency requirements apply to the area of the facade between four (4) feet and eight (8) feet above sidewalk grade. Only clear or lightly tinted glass in windows, doors, and display windows ~~is~~~~((shall be))~~ considered to be transparent. Transparent areas shall allow views into the structure or into display windows from the outside.

2. Facade transparency requirements ~~do~~((shall)) not apply to portions of structures in residential use.

3. When the transparency requirements of this subsection are inconsistent with the glazing limits in the Energy Code, this subsection shall apply.

4. Transparency requirements ~~are~~((shall be)) as follows:

a. Class I pedestrian streets: A minimum of sixty (60) percent of the street-level façade shall be transparent.

~~((a-))~~ b. Class II pedestrian streets and Designated Green Streets: A minimum of thirty (30) percent of the street-level facade shall be transparent.

~~((b. When the slope of the street frontage of the facade exceeds seven and one-half (7 1/2) percent, the required amount of transparency shall be reduced to twenty-two (22) percent.))~~

c. When the slope of the street frontage of the façade exceeds seven and one-half (7 1/2) percent, the required amount of transparency is reduced to fifty (50) percent on Class I pedestrian streets and twenty-five (25) percent on Class II pedestrian streets and designated green streets.

D. Blank Facade Limits.

1. General Provisions.

a. Blank facade limits ~~((shall))~~ apply to the area of the facade between two (2) feet and eight (8) feet above the sidewalk, except where the slope along the street frontage of the façade exceeds seven and one-half (7 ½) percent, in

1 which case the blank façade limits ~~((shall))~~ apply to the area of the façade between
2 four (4) feet and eight (8) feet above sidewalk grade.

3 b. Any portion of a facade that~~((which))~~ is not transparent
4 shall be considered to be a blank facade.

5 c. Blank facade limits shall not apply to portions of structures
6 in residential use.

7 2. Blank Facade Limits for Class I Pedestrian Streets.

8 a. Blank facades are limited to segments fifteen (15) feet
9 wide, except for garage doors which may exceed fifteen (15) feet. Blank facade
10 width may be increased to thirty (30) feet if the Director determines that the facade
11 is enhanced by architectural detailing, artwork, landscaping, or similar features that
12 have visual interest. The width of garage doors may not exceed the width of the
13 driveway plus five (5) feet.

14 b. Any blank segments of the facade shall be separated from
15 other blank segments by transparent areas at least two (2) feet wide.

16 c. The total of all blank facade segments, including garage
17 doors, shall not exceed forty (40) percent of the street facade of the structure on
18 each street frontage; or fifty (50) percent if the slope of the street frontage of the
19 facade exceeds seven and one-half (7 1/2) percent.

20 ~~((2.))~~ 3. Blank Facade Limits for Class II Pedestrian Streets and
21 ~~((Street Parks))~~ Designated Green Streets.

22 a. Blank facades shall be limited to segments thirty (30) feet
23 wide, except for garage doors which may exceed thirty (30) feet. Blank facade

width may be increased to sixty (60) feet if the Director determines that the facade is enhanced by architectural detailing, artwork, landscaping, or similar features that have visual interest. The width of garage doors shall be limited to the width of the driveway plus five (5) feet.

b. Any blank segments of the facade shall be separated by transparent areas at least two (2) feet wide.

c. The total of all blank facade segments, including garage doors, shall not exceed seventy (70) percent of the street facade of the structure on each street frontage; or ~~((seventy-eight (78)))~~ seventy-five (75) percent if the slope of the street frontage of the facade exceeds seven and one-half (7 1/2) percent.

E. ~~((Screening of Parking.~~

~~1. Parking located at or above street level in a garage shall be screened according to the following requirements:~~

~~a. On Class II pedestrian streets, ((parking shall be permitted at street level when)) at least thirty (30) percent of the street frontage of ((the)) any street level parking area, excluding that portion of the frontage occupied by garage doors, ~~((is))~~ shall be separated from the street by other uses. The facade of the separating uses shall be subject to the transparency and blank wall standards for Class I pedestrian streets in subsections C and D of this section. The remaining parking, shall be screened from view at street level and the street facade shall be enhanced by architectural detailing, artwork, landscaping, or similar visual interest features.~~

~~b. On Green Streets, parking shall not be permitted at street level unless separated from the street by other uses, provided that garage doors need not be separated.~~

~~c. The perimeter of each floor of parking garages above street level shall have an opaque screen at least three and one half (3 1/2) feet high.~~

~~2. Surface parking areas shall be screened and landscaped pursuant to Section ((23.49.020, Screening and landscaping of surface parking areas.))~~

Reserved.

* * *

Section 72. Subsection B of Section 23.49.338 of the Seattle Municipal Code, which Section was last amended by Ordinance 120928, is amended as follows:

23.49.338 Pike Market Mixed, prohibited uses.

* * *

B. Within the Pike Place Market Historical District, Map 1((L))K, uses may be prohibited by the Pike Market Historical Commission pursuant to the Pike Place Market Historical District Ordinance.

Section 73. Subsection A of Section 23.54.015 of the Seattle Municipal Code, which Section was last amended by Ordinance 121792, is amended as follows:

23.54.015 Required parking.

A. The minimum number of off-street parking spaces required for specific uses shall be based upon gross floor area, unless otherwise specified, as set forth in

Chart A, except for uses located in downtown zones, which are regulated by Section ((23.49.016)) 23.49.019, and Major Institution uses, which are regulated by Section 23.54.016. (See Chart A for Section 23.54.015.)

Minimum parking requirements for uses in the Stadium Transition Area Overlay District to which a maximum parking ratio applies shall be reduced to the extent necessary, if any, to allow compliance with the maximum parking ratio as it applies to all such uses on the same lot.

If floor area of a use for which parking is required is added to a lot for which one or more minimum parking ratios has been reduced under the previous sentence, or if the floor area of any such existing uses on such a lot are modified, or both, then any reductions in minimum required parking ratios shall be adjusted so that the total of all reductions in required parking for uses on that lot is the amount necessary to permit compliance with the applicable maximum parking ratio.

* * *

Section 74. The introductory subsection of Section 23.54.020 of the Seattle Municipal Code, which Section was last amended by Ordinance 121782, is amended as follows:

23.54.020 Parking quantity exceptions.

The parking quantity exceptions set forth in this section shall apply in all zones except downtown zones, which are regulated by Section ((23.49.016)) 23.49.019, and Major Institution zones, which are regulated by Section 23.54.016.

* * *

Section 75. Subsection F of Section 23.54.030 of the Seattle Municipal Code, which Section was last amended by Ordinance 121782 is amended as follows:

23.54.030 Parking space standards

* * *

F. Curbscuts. Curbscut requirements shall be determined by whether the parking served by the curbscut is for residential or nonresidential use, and by the zone in which the use is located. When a curbscut is used for more than one (1) use or for one (1) or more live-work units, the requirements for the use with the largest curbscut requirements shall apply.

1. Residential Uses in Single-family and Multi-family Zones and Single-purpose Residential Uses in All Other Zones.

a. For lots not located on a principal arterial as designated on Exhibit 23.53.015 A, the number of curbscuts permitted shall be according to the following chart:

Street or Easement Frontage of the Lot	Number of Curbscuts Permitted
0 -- 80 feet	1
81 -- 160 feet	2
161 -- 240 feet	3
241 -- 320 feet	4

For lots with frontage in excess of three hundred twenty (320) feet, the pattern established in the chart shall be continued.

b. Curbcuts shall not exceed a maximum width of ten (10) feet except that:

(1) One (1) curbcut greater than ten (10) feet but in no case greater than twenty (20) feet in width may be substituted for each two (2) curbcuts permitted by subsection F1a; and

(2) A greater width may be specifically permitted by the development standards in a zone; and

(3) When subsection D of Section 23.54.030 requires a driveway greater than ten (10) feet in width, the curbcut may be as wide as the required width of the driveway.

c. For lots on principal arterials designated on Exhibit 23.53.015 A, curbcuts of a maximum width of twenty-three (23) feet shall be permitted according to the following chart.

Street Frontage of the Lot	Number of Curbcuts Permitted
0 -- 160 feet	1
161 -- 320 feet	2
321 -- 480 feet	3

For lots with street frontage in excess of four hundred eighty (480) feet, the pattern established in the chart shall be continued.

d. There shall be at least thirty (30) feet between any two (2) curbcuts located on a lot.

e. A curbcut may be less than the maximum width permitted but shall be at least as wide as the minimum required width of the driveway it serves.

f. Where two (2) adjoining lots share a common driveway according to the provisions of Section 23.54.030 D1, the combined frontage of the two (2) lots shall be considered one (1) in determining the maximum number of permitted curbcuts.

2. Nonresidential Uses in Single-family and Multifamily Zones, and All Uses, Except Single-purpose Residential Uses, in All Other Zones Except Industrial Zones.

a. Number of Curbcuts.

(1) In RC, NC1, NC2 and NC3 zones and within Major Institution Overlay Districts, the number of two-way curbcuts permitted shall be according to the following chart:

Street Frontage of the Lot	Number of Curbcuts Permitted
0 -- 80 feet	1
81 -- 240 feet	2
241 -- 360 feet	3
361 -- 480 feet	4

For lots with frontage in excess of four hundred eighty (480) feet the pattern established in the chart shall be continued. The Director may allow two (2) one-way curbcuts to be substituted for one (1) two-way curbcut, after determining that there would not be a significant conflict with pedestrian traffic.

(2) In C1 and C2 zones and the SM zone, the Director shall review and make a recommendation on the number and location of curbcuts.

(3) In downtown zones, a maximum of two (2) curbcuts for one (1) way traffic at least forty (40) feet apart, or one (1) curbcut for two (2) way traffic, shall be permitted on each street front where access is permitted by Section ~~((23.49.018))~~ 23.49.019 H. No curbcut shall be located within forty (40) feet of an intersection. These standards may be modified by the Director as a Type I decision on lots with steep slopes or other special conditions, to the minimum extent necessary to provide vehicular and pedestrian safety and facilitate a smooth flow of traffic.

(4) For public schools, the minimum number of curbcuts determined necessary by the Director shall be permitted.

b. Curbcut Widths.

(1) For one (1) way traffic, the minimum width of curbcuts shall be twelve (12) feet, and the maximum width shall be fifteen (15) feet.

(2) For two (2) way traffic, the minimum width of curbcuts shall be twenty-two (22) feet, and the maximum width shall be twenty-five (25) feet, except that the maximum width may be increased to thirty (30) feet when truck and auto access are combined.

(3) For public schools, the maximum width of curbcuts shall be twenty-five (25) feet. Development standards departure may be granted or required pursuant to the procedures and criteria set forth in Chapter 23.79.

(4) When one (1) of the following conditions applies,
the Director may require a curbcut of up to thirty (30) feet in width, if it is found
that a wider curbcut is necessary for safe access:

i. The abutting street has a single lane on the
side that abuts the lot; or

ii. The curb lane abutting the lot is less than
eleven (11) feet wide; or

iii. The proposed development is located on an
arterial with an average daily traffic volume of over seven thousand (7,000)
vehicles; or

iv. Off-street loading space is required
according to subsection H of Section 23.54.015.

c. The entrances to all garages accessory to nonresidential
uses or live-work units and the entrances to all principal use parking garages shall
be at least six (6) feet nine (9) inches high.

3. All Uses in Industrial Zones.

a. Number and Location of Curbcuts. The number and
location of curbcuts shall be determined by the Director.

b. Curbcut Width. Curbcut width in Industrial zones shall be
provided as follows:

(1) When the curbcut provides access to a parking
area or structure it shall be a minimum of fifteen (15) feet wide and a maximum of
thirty (30) feet wide.

(2) When the curbcut provides access to a loading berth, the maximum width of thirty (30) feet set in subsection F3b(1) may be increased to fifty (50) feet.

(3) Within the minimum and maximum widths established by this subsection, the Director shall determine the size of the curbcuts.

4. Curbcuts for Access Easements.

a. When a lot is crossed by an access easement serving other lots, the curbcut serving the easement may be as wide as the easement roadway.

b. The curbcut serving an access easement shall not be counted against the number or amount of curbcut permitted to a lot if the lot is not itself served by the easement.

5. Curbcut Flare. A flare with a maximum width of two and one-half (2 1/2) feet shall be permitted on either side of curbcuts in any zone.

6. Replacement of Unused Curbcuts. When a curbcut is no longer needed to provide access to a lot, the curb and any planting strip shall be replaced.

* * *

Section 76. Subsection B of Section 23.66.122 of the Seattle Municipal Code, which Section was last amended by Ordinance 120928, is amended as follows:

23.66.122 Prohibited Uses.

* * *

B. Commercial uses that~~((which))~~ are automobile-oriented are prohibited. Such uses include but are not limited to the following:

1 1. Drive-in businesses, except gas stations accessory to parking
2 garages;

3 2. Principal and accessory surface parking areas not in existence
4 prior to August 10, 1981, except that accessory use surface parking lots may be
5 permitted in Subarea B shown on Map C if the lot satisfies the provisions of SMC
6 Section 23.49.019, Parking quantity, access and screening/landscaping
7 requirements. ((~~23.49.020, Screening and landscaping of surface parking areas.~~))

8 3. Motels.

9 Section 77. Subsection A of Section 23.66.170 of the Seattle Municipal
10 Code, which Section was last amended by Ordinance 120611, is amended as
11 follows:

12 **23.66.170 Parking and access.**

13 A. Parking standards ((~~shall be required~~))in the Pioneer Square Preservation
14 District((~~, according~~)) ((~~to~~)) are set forth in Section ((~~23.49.016~~)) 23.49.019 of this
15 Land Use Code.

16 * * *

17 Section 78. Subsection C of Section 23.74.010 of the Seattle Municipal
18 Code, which Section was enacted by Ordinance 119972, is amended as follows:

19 **23.74.010 Development Standards.**

20 * * *

21 C. The following development standards apply to each use and structure,
22 except spectator sports facilities, to the extent that the use or structure either is on a
23 lot fronting on Railroad Way South, 1st Avenue South, South Holgate between 1st

1 Avenue South and Occidental Avenue South, or Occidental Avenue South, or is
2 within a forty (40) foot radius measured from any of the block corners of 1st Avenue
3 South or Occidental Avenue South intersecting with the following streets: Railroad
4 Way South, South Royal Brougham, South Atlantic, South Massachusetts, South
5 Holgate and any other streets intersecting with 1st Avenue or Occidental Avenue
6 South that may be established between South Holgate Street and Railroad Way
7 South, as depicted in Exhibit 23.74.010 A. Railroad Way South, First Avenue
8 South, South Holgate Street and Occidental Avenue South within the Stadium
9 Transition Overlay District, and all street areas within a forty (40) foot radius of any
10 of those block corners described above, are referred to in this section as the
11 "pedestrian environment," except that in applying this section to a through lot
12 abutting on Occidental Avenue South and on 1st Avenue South, Occidental Avenue
13 South is not considered part of the pedestrian environment.

14 1. Street Facade Requirements. The following requirements apply to
15 facades or portions thereof facing streets or portions of streets in the pedestrian
16 environment:

17 a. Minimum Facade Height. Minimum facade height shall be
18 twenty-five (25) feet, but minimum facade heights shall not apply when all portions
19 of the structure are lower than the elevation of the required minimum facade height.

20 b. Facade Setback Limits.

21 (i) Within the first twenty-five (25) feet of height
22 measured from sidewalk grade, all building facades must be built to within two (2)
23 feet of the street property line for the entire facade length. For purposes of this

subsection (C)(1)(b), balcony railings and other nonstructural features or nonstructural walls are not considered parts of the facade of the structure.

(ii) Above twenty-five (25) feet measured from sidewalk grade, the maximum setback is ten (10) feet, and no single setback area that is deeper than two (2) feet shall be wider than twenty (20) feet, measured parallel to the street property line.

(iii) The facade shall return to within two (2) feet of the street property line for a minimum of ten (10) feet, measured parallel to the street property line, between any two setback areas that are deeper than two feet.

2. Outdoor Service Areas. Gas station pumps, service islands, queuing lanes, and other service areas related to fueling are not allowed between any structure and the pedestrian environment area described in this section. Gas station pumps, service islands, queuing lanes, and other service areas related to fueling must be located behind or to the side of a gas station, as viewed from any street in such pedestrian environment and are not allowed between any structure on the same lot and the pedestrian environment area described in this section.

3. Screening and Landscaping. The requirements of Sections 23.50.016, 23.50.034, and 23.50.038, including requirements contingent on location near a commercial zone, apply to all new uses and structures. Requirements in Section 23.50.038 contingent on location near a residential lot do not apply. In addition, the screening and landscaping requirements for outdoor storage in subsections a and c of Section 23.47.016 D5 apply, with respect to street property lines abutting the pedestrian environment, to the following uses, where a principal

or accessory use is located outdoors: outdoor storage (except for outdoor storage associated with florists and horticultural uses), surface parking, sales and rental of motorized vehicles, towing services, sales and rental of large boats, dry storage of boats, sales, service and rental of commercial equipment and construction materials, heavy commercial services, outdoor participant sports and recreation, wholesale showroom, mini-warehouse, warehouse and outdoor storage, transportation facilities, and utilities (except for utility service uses), and light and general manufacturing.

4. Blank Facades and Transparency Requirements. In addition to the blank facade requirements of Section 23.50.038 A2, the blank façade limits and transparency and street tree requirements of Section ~~((23.49.076))~~ 23.49.056 C, D, and E ((and F)), and the screening of parking requirements of Section 23.49.019B apply to facades or portions thereof facing streets in the pedestrian environment, except that requirements for Class I Pedestrian Streets and designated ~~((G))~~ green ~~((S))~~ streets do not apply.

5. Principal Pedestrian Entrances. A principal pedestrian entrance to a structure having a facade along Railroad Way South, 1st Avenue South, or Occidental Avenue South shall be located on Railroad Way South, 1st Avenue South, or Occidental Avenue South, respectively. If the structure has facades along both 1st Avenue South and Occidental Avenue South, a principal pedestrian entrance is required only on 1st Avenue South.

Section 79. Section 23.57.013 of the Seattle Municipal Code, which Section was last amended by Ordinance 120928, is amended as follows:

* * *

B. Development Standards.

1. Access to transmitting minor communication utilities and accessory communication devices shall be restricted to authorized personnel when located on rooftops or other common areas. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

2. Height.

a. Except for special review, historic and landmark districts (see Section 23.57.014), minor communication utilities and accessory communication devices may be located on rooftops of buildings, including sides of parapets and equipment penthouses above the roofline, as follows:

(i) These utilities and devices located on a rooftop of a building nonconforming as to height may extend up to fifteen (15) feet above the height of the building existing as of the date of Ordinance 120928;

(ii) These utilities and devices located on a rooftop may extend up to fifteen (15) feet above the ~~((zone))~~ applicable height limit or above the highest portion of a building, whichever is less.

The additional height permitted in a(i) and (ii) above is permitted if the combined total of communication utilities and accessory communication devices in addition to the roof area occupied by rooftop features listed in Section 23.49.008 ~~((C))~~D2, does not exceed ~~((twenty (20)))~~ thirty-five (35)

1 percent of the total rooftop area (~~(or twenty five (25) percent of the rooftop area~~
2 ~~including screened mechanical equipment~~)).

3 b. The height of minor communications utilities and
4 accompanying screening may be further increased through the design review
5 process, not to exceed ten (10) percent of the (~~(maximum)~~) applicable height limit
6 for (~~(of the zone in which)~~) the structure (~~(is located)~~). For new buildings this
7 increase in height may be granted through the design review process provided for in
8 Section 23.41.014. For minor communication utilities on existing buildings this
9 increase in height may be granted through administrative design review provided
10 for in Section 23.41.016.

11 3. Visual Impacts. All minor communication utilities and accessory
12 communication devices, except for facilities located on buildings designated by the
13 Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014,
14 and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

15 4. Antennas may be located on rooftops of buildings, including sides
16 of parapets above the roofline. Rooftop space within the following parameters shall
17 not count toward meeting open space requirements: the area eight (8) feet away
18 from and in front of a directional antenna and at least two (2) feet from the back of
19 a directional antenna, or, for an omnidirectional antenna, eight (8) feet away from
20 the antenna in all directions. The Seattle-King County Department of Public Health
21 may require a greater distance for paging facilities after review of the Non-Ionizing
22 Electromagnetic Radiation (NIER) report.

23 * * *

Section 80. Subsection A of Section 23.76.004 of the Seattle Municipal Code, which Section was last amended by Ordinance 121828, is amended as follows:

23.76.004 Land use decision framework.

A. Land use decisions are classified into five (5) categories based on the amount of discretion and level of impact associated with each decision. Procedures for the five (5) different categories are distinguished according to who makes the decision, the type and amount of public notice required, and whether appeal opportunities are provided. Land use decisions are categorized by type in Exhibit 23.76.004A.

Exhibit 23.76.004A LAND USE DECISION FRAMEWORK DIRECTOR'S AND HEARING EXAMINER'S DECISIONS REQUIRING MASTER USE PERMITS		
TYPE I Director's Decision (No Administrative Appeal)	TYPE II Director's Decision (Appealable to Hearing Examiner*)	TYPE III Hearing Examiner's Decision (No Administrative Appeal)
<ul style="list-style-type: none"> • Compliance with development standards • Uses permitted outright • Temporary uses, four weeks or less • Intermittent uses • Certain street uses • Lot boundary adjustments • Modifications of features 	<ul style="list-style-type: none"> • Temporary uses, more than four weeks • Variances • Administrative conditional uses • Shoreline decisions (*appealable to Shorelines Hearings Board along with all related environmental appeals) • Short subdivisions 	<ul style="list-style-type: none"> • Subdivision (preliminary plats)

Exhibit 23.76.004A
LAND USE DECISION FRAMEWORK

**DIRECTOR'S AND HEARING EXAMINER'S
 DECISIONS REQUIRING MASTER USE PERMITS**

TYPE I Director's Decision (No Administrative Appeal)	TYPE II Director's Decision (Appealable to Hearing Examiner*)	TYPE III Hearing Examiner's Decision (No Administrative Appeal)
<p>bonused under Title 24</p> <ul style="list-style-type: none"> • Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation • Temporary uses, twelve months or less, for relocation of police and fire protection • Exemptions from right-of-way improvement requirements • Special accommodation • Reasonable accommodation • Minor amendment to a Major Phased Development Permit • <u>Determination of public benefit for combined lot FAR</u> • <u>Other Type I decisions that are identified as such in the Land Use Code.</u> 	<ul style="list-style-type: none"> • Special exceptions • Design review • Light rail transit facilities • Monorail transit facilities • The following environmental determinations: <ol style="list-style-type: none"> 1. Determination of nonsignificance (EIS not required) 2. Determination of final EIS adequacy 3. Determination of significance based solely on historic and cultural preservation 4. A decision by the Director to approve, condition or deny a project based on SEPA Policies 5. A decision by the Director that a project is consistent with a Planned Action Ordinance and EIS (no threshold determination or EIS 	

Exhibit 23.76.004A
LAND USE DECISION FRAMEWORK

**DIRECTOR'S AND HEARING EXAMINER'S
 DECISIONS REQUIRING MASTER USE PERMITS**

TYPE I Director's Decision (No Administrative Appeal)	TYPE II Director's Decision (Appealable to Hearing Examiner*)	TYPE III Hearing Examiner's Decision (No Administrative Appeal)
	required) <ul style="list-style-type: none"> • Major Phased Development • <u>Downtown Planned Community Developments</u> 	

COUNCIL LAND USE DECISIONS

TYPE IV (Quasi-Judicial)	TYPE V (Legislative)
<ul style="list-style-type: none"> • Land use map amendments (rezones) • Public project approvals • Major Institution master plans • Council conditional uses • ((Downtown planned community developments)) 	<ul style="list-style-type: none"> • Land Use Code text amendments • Rezones to implement new City Policies • Concept approval for City facilities • Major Institution designations • Waive or modify development standards for City facilities • Planned Action Ordinance

* * *

Section 81. Subsections B and C of Section 23.76.006 of the Seattle Municipal Code, which Section was last amended by Ordinance 121476, are amended as follows:

23.76.006 Master Use Permits required.

* * *

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards;

2. Establishment or change of use for uses permitted outright, temporary uses for four (4) weeks or less not otherwise permitted in the zone, and temporary relocation of police and fire stations for twelve (12) months or less;

3. The following street use approvals associated with a development proposal:

a. Curb cut for access to parking,

b. Concept approval of street improvements, such as additional on-street parking, street landscaping, curbs and gutters, street drainage, sidewalks, and paving,

c. Sidewalk cafes provided that Type II notice of application procedures shall be followed,

d. Structural building overhangs,

e. Areaways;

4. Lot boundary adjustments;

5. Modification of the following features bonused under Title 24:

a. Plazas,

b. Shopping plazas,

c. Arcades,

d. Shopping arcades,

1 e. Voluntary building setbacks;

2 6. Determinations of Significance (determination that an
3 environmental impact statement is required) for Master Use Permits and for
4 building, demolition, grading and other construction permits (supplemental
5 procedures for environmental review are established in Chapter 25.05,
6 Environmental Policies and Procedures), except for Determinations of Significance
7 based solely on historic and cultural preservation;

8 7. Discretionary exceptions for certain business signs authorized by
9 Section 23.55.042D;

10 8. Waiver or modification of required right-of-way improvements;

11 9. Special accommodation pursuant to Section 23.44.015;

12 10. Reasonable accommodation; ~~((and))~~

13 11. Minor amendment to Major Phased Development Permit~~((:))~~;

14 12. Determination of public benefit for combined lot development;

15 and

16 13. Other Type I decisions that are identified as such in the Land
17 Use Code.

18 C. The following are Type II decisions:

19 1. The following procedural environmental decisions for Master
20 Use Permits and for building, demolition, grading and other construction permits
21 are subject to appeal to the Hearing Examiner and are not subject to further appeal
22 to the City Council (supplemental procedures for environmental review are
23 established in SMC Chapter 25.05, Environmental Policies and Procedures):

1 a. Determinations of Nonsignificance (DNSs),
2 including mitigated DNSs;

3 b. Determination that a final environmental impact
4 statement (EIS) is adequate; and

5 c. Determination of Significance based solely on
6 historic and cultural preservation.

7 2. The following decisions, including any integrated decisions to
8 approve, condition or deny based on SEPA policies, are subject to appeal to the
9 Hearing Examiner (except shoreline decisions and related environmental
10 determinations which are appealable to the Shorelines Hearings Board):

11 a. Establishment or change of use for temporary uses
12 more than four
13 (4) weeks not otherwise permitted in the zone or not meeting development
14 standards, including the establishment of temporary uses and facilities to construct a
15 light rail transit system for so long as is necessary to construct the system as
16 provided in Section 23.42.040E, and excepting temporary relocation of police and
17 fire stations for twelve (12) months or less;

18 b. Short subdivisions;

19 c. Variances; provided that, variances sought as part of
20 a Type IV decision may be granted by the Council pursuant to Section 23.76.036;

21 d. Special exceptions; provided that, special exceptions
22 sought as part of a Type IV decision may be granted by the Council pursuant to
23 Section 23.76.036;

e. Design review;

f. Administrative conditional uses; provided that,
administrative conditional uses sought as part of a Type IV decision may be
approved by the Council pursuant to Section 23.76.036;

g. The following shoreline decisions (supplemental
procedures for shoreline decisions are established in Chapter 23.60):

(1) Shoreline substantial development
permits,

(2) Shoreline variances,

(3) Shoreline conditional uses;

h. Major Phased Development;

i. Determination of project consistency with a planned
action ordinance and EIS;

j. Establishment of light rail transit facilities necessary
to operate and maintain a light rail transit system, in accordance with the provisions
of Section 23.80.004; (~~and~~)

k. Establishment of monorail transit facilities necessary
to operate and maintain a monorail transit system, in accordance with the provisions
of Section 23.80.004 and Section 15.54.020; and

l. Downtown planned community developments.

* * *

Section 82. Section 23.76.011 of the Seattle Municipal Code, which Section
was last amended by Ordinance 121476, is amended as follows:

23.76.011 Notice of early design guidance and planned community development process.

~~((For design review projects the Director shall provide notice of the required early design guidance process))~~ A. The Director shall provide the following notice for the required early design guidance process for design review projects and the preparation of priorities for planned community developments:

1. Publication of notice in the Land Use Information Bulletin; and
~~((In addition,))~~

2. ~~((The Director shall provide m))~~ Mailed notice~~((;))~~; and

B. ~~((t))~~The applicant shall post one (1) land use sign visible to the public at each street frontage abutting the site except, when there is no street frontage or the site abuts an unimproved street, the Director shall require either more than one (1) sign and/or an alternative posting location so that notice is clearly visible to the public.~~((H))~~

C. For the required meeting for the preparation of priorities for a planned community development, and for a public meeting required for ~~((an))~~ early design guidance ~~((public meeting is required))~~, the time, date, location and purpose of the meeting shall be included with the mailed notice.

D. The land use sign may be removed by the applicant the day after the public meeting.

Section 83. Subsection A of Section 23.76.032 of the Seattle Municipal Code, which Section was last amended by Ordinance 121112, is amended as follows:

Section 23.76.032 Expiration and renewal of Type I and II Master Use Permits

A. Expiration.

1. An issued Type I or II Master Use Permit shall expire three (3) years from the date a permit is approved for issuance as described in Section 23.76.028, except as follows:

a. Expiration of a Master Use Permit with a shoreline component shall be governed by WAC 173-27-090.

b. Expiration of a variance component of a Master Use Permit shall be governed by the following:

(1) Variances for access, yards, setback, open space, or lot area minimums granted as part of short plat or lot boundary adjustment shall run with the land in perpetuity as recorded with the Director of the King County Department of Records and Elections.

(2) Variances granted as separate Master Use Permits pursuant to Section 23.76.004 G shall expire three (3) years from the date the permit is approved for issuance as described in Section 23.76.028 or on the effective date of any text amendment making more stringent the development standard from which the variance was granted, whichever is sooner. If a Master Use Permit to establish the use is granted within this period, the variance's expiration date shall be extended until the expiration date established for the use approval.

c. The time during which pendency of litigation related to the Master Use Permit or the property subject to the permit made it reasonable not to submit an application for a building permit, or to establish a use where a

building permit is not required, shall not be included in the three (3) year term of the Master Use Permit.

d. Master Use Permits with a Major Phased Development or Planned Community Development component established under Section 23.47.007, ~~((or))~~ 23.50.015 or 23.49.036 shall expire as follows:

(1) For the first phase, three (3) years from the date the permit is approved for issuance;

(2) For subsequent phases, expiration shall be determined at the time of permit issuance.

2. At the end of the three (3) year term, Master Use Permits shall expire unless one of the conditions in subsections a through d of this subsection 2 prevails:

a. A building permit is issued before the end of the three (3) year term, or an application for a building permit is: (1) submitted at least sixty (60) days before the end of the three (3) year term; (2) made sufficiently complete to constitute a fully complete building permit application as defined in ~~((meet the requirements of Section 106 of))~~ the Seattle Building Code, or for a highrise structure regulated under Section 403 of the Seattle Building Code, made to include the complete structural frame of the building and schematic plans for the exterior shell of the building, in either case before the end of the three (3) year term; and (3) subsequently issued. In such cases, the Master Use Permit shall be extended for the same term as the building permit is issued. For highrise structures regulated under Section 403 of the Seattle Building Code, the building permit

1 application may be a partial one, provided that it includes the complete structural
2 frame of the building, and schematic plans for the exterior shell of the building.((;
3 ~~or~~))

4 b. For projects that do not require a building permit, the
5 use has been established prior to the expiration date of the Master Use Permit and is
6 not terminated by abandonment or otherwise. In such cases the Master Use Permit
7 shall not expire.((~~;~~))

8 c. The Master Use Permit is renewed pursuant to
9 subsection B.((~~;~~))

10 d. A Major Phased Development or Planned
11 Community Development component is part of the Master Use Permit, in which
12 case subsection A1d shall apply.

13 Section 84. Subsection A of Section 23.76.036 of the Seattle Municipal
14 Code, which Section was last amended by Ordinance 121477, is amended as
15 follows:

16 **23.76.036 Council decisions required.**

17 A. The Council shall make the following Type IV Council land use
18 decisions, including any integrated decisions to approve, condition or deny based on
19 SEPA Policies, and any associated Type II decisions listed in Section 23.76.006 C2:

20 1. Amendments to the Official Land Use Map, including changes in
21 overlay districts and shoreline environment redesignations, except those initiated by
22 the City and except boundary adjustments caused by the acquisition, merger or
23 consolidation of two (2) Major Institutions pursuant to Section 23.69.023;

2. Public projects proposed by applicants other than The City of
Seattle that require Council approval;

3. Major Institution master plans (supplemental procedures for
master plans are established in SMC Chapter 23.69); and

4. Council conditional uses; ~~(; and~~

~~5. Downtown planned community developments;))~~

* * *

Section 85. Subsection D of Section 23.76.040 of the Seattle Municipal
Code, which subsection was last amended by Ordinance 121476, is amended as
follows:

* * *

D. All applications shall contain the submittal information required by the
applicable sections of this Title 23, Land Use Code; SMC Title 15, Street and
Sidewalk Use; SMC Chapter 25.05, SEPA Policies and Procedures; SMC Chapter
25.09, Regulations for Environmentally Critical Areas; SMC Chapter 25.12,
Landmark Preservation; SMC Chapter 25.16, Ballard Avenue Landmark District;
SMC Chapter 25.20, Columbia City Landmark District; SMC Chapter 25.22,
Harvard-Belmont Landmark District; SMC Chapter 25.24, Pike Place Market
Historical District; and other codes as determined applicable by the Director. The
following information shall also be required as further specified in the Director's
Rule on Application Submittal Guidelines, unless the Director indicates in writing
that specific information is not necessary for a particular application:

- 1 1. Property information including, but not limited to, address, legal
2 description, Assessor's Parcel number, and project description;
- 3 2. Evidence of ownership or authorization from the property owner
4 for Council Conditional Uses (~~(and Downtown Planned Community~~
5 ~~Developments~~));
- 6 3. A signed statement of financial responsibility from the applicant
7 acknowledging financial responsibility for all applicable permit fees. If the
8 application is made, in whole or in part, on behalf of the property's owner, lessee,
9 and/or contract purchaser, then the statement of financial responsibility must also
10 include a signed statement of the owner, lessee, and/or contract purchaser
11 acknowledging financial responsibility for all applicable permit fees;
- 12 4. Scale drawings with all dimensions shown that include, but are not
13 limited to, the following information:
 - 14 a. Existing site conditions showing adjacent streets (by
15 name), alleys or other adjacent public property, existing street uses, such as street
16 trees and sidewalk displays, buildings and structures, open space and landscape,
17 access driveways and parking areas,
 - 18 b. Elevations and sections of the proposed new features,
 - 19 c. Floor plans showing the proposed new features,
 - 20 d. Drainage plan,
 - 21 e. Landscape plan,
 - 22 f. Right-of-way information showing any work proposed in
23 the public right-of-way,

1 g. Identification on the site plan of all easements, deed
2 restrictions, or other encumbrances restricting the use of the property, if applicable,

3 h. Parking layout and vehicular access,

4 i. Vicinity map,

5 j. Topographic map, and

6 k. Open space plan;

7 5. A statement whether the site includes or is adjacent to a nominated
8 or designated City of Seattle landmark, or has been listed as eligible for landmark
9 status by the state or federal governments, or is within a City of Seattle landmark or
10 special review district. If the site includes a nominated or designated City of Seattle
11 landmark, or is within a City of Seattle landmark or special review district, then the
12 applicant must provide a copy of any application for any required certificate of
13 approval that has been filed with the Department of Neighborhoods. If the site does
14 not include a landmark and is not within a landmark or special review district, then
15 the applicant must provide the following information:

16 a. Date the buildings on the site were constructed,

17 b. Name of the architect(s) or builder(s), and

18 c. For any building fifty (50) or more years old, clear exterior
19 photos of all elevations of the building;

20 6. Information, including technical reports, drawings, models or text,
21 necessary to evaluate the development proposal, project site and potential
22 environmental effects related to the following:

23 a. Soils and geology,

- b. Grading,
- c. Drainage,
- d. Construction impacts,
- e. Air quality,
- f. Water quality,
- g. Water discharge,
- h. View impairment,
- i. Energy consumption,
- j. Animal habitat impacts,
- k. Plant ecology, botany and vegetation,
- l. Noise,
- m. Release and disposal of toxic and hazardous materials,
- n. Soil contamination,
- o. Dredging,
- p. Land use,
- q. Housing,
- r. Light and glare,
- s. Shadow,
- t. Aesthetics,
- u. Use and demand on recreation facilities,
- v. Vehicular traffic and circulation,
- w. Parking,
- x. Pedestrian circulation,

y. Circulation and movement of goods,

z. Traffic hazard, and

aa. Demand on public service and utilities.

* * *

Section 86. Subsection C of Section 23.76.058 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, is amended as follows:

23.76.058 Rules for specific decisions.

* * *

C. Reserved. ~~((Downtown Planned Community Developments.~~

~~1. Council Action. Approval of an application for a planned community development shall be by ordinance. The ordinance shall also amend the Official Land Use Map to indicate:~~

~~a. The boundaries of the approved planned community development;~~

~~b. The number of the ordinance approving the preliminary plans for the planned community development; and~~

~~c. The number of the Clerk's File containing the approved preliminary plans.~~

~~2. Final Plans. If the Council approves the application for a planned community development it shall authorize the applicant to prepare final plans which, together with any required covenants, shall be filed with the Director within~~

one (1) year of the date of Council authorization, unless a longer period is
authorized by the Council.

a. If the Director finds that the final plans conform
substantially to the Council authorization, the Director shall approve the plans.

b. If in the Director's judgment the final plans do not conform
to the Council's authorization, the application shall be denied.

c. Following action on the final plans, the Director shall file a
report with the Council indicating how the plans did or did not meet the conditions
of Council approval and whether or not the plans were approved.

d. No building or use permit shall be issued for a planned
community development prior to final plan approval by the Director.))

* * *

Section 87. Subsection B of Section 23.76.060, which Section was last
amended by Ordinance 118012, is amended as follows:

B. Contract Rezones, Council Conditional Uses((;)) and Public projects
((and Planned Community Developments))

1. Contract rezones, Council conditional uses((;)) and public
projects ((and planned community developments)) approved under Title 23 shall
expire two (2) years from the effective date of approval unless:

a. Within the two (2) year period, an application is filed for a
Master Use Permit, which permit is subsequently issued; or

b. Another time for expiration is specified in the Council's
decision.

2. If a Master Use Permit is issued for the contract rezone, Council conditional use((~~7~~)) or public project ((~~or planned community development~~)), the Council's approval of the contract rezone, Council conditional use((~~7~~)) or public project ((~~or planned community development~~)), shall remain in effect until the Master Use Permit expires pursuant to the provisions of Section 23.76.032, or until the time specified by the Council, whichever is longer

3. When a contract rezone ((~~or planned community development~~)) expires, the Director shall file a certificate of expiration with the City Clerk and a notation shall be placed on the Official Land Use Map showing the reversion to the former classification

Section 88. Section 23.84.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 121477, is amended by adding the following new subsections, to be inserted in alphabetical order:

23.84.008 Definitions -- "D."

* * *

"DMC housing TDR site." See "TDR site, DMC housing."

* * *

"Downtown Amenity Standards" means the provisions contained in Attachment 3 to this ordinance, as they may be amended from time to time by ordinance.

* * *

Section 89. Section 23.84.014 of the Seattle Municipal Code, which Section was last amended by Ordinance 121477, is amended adding the following new subsection, to be inserted in alphabetical order:

Section 23.84.014 "G"

* * *

"Green street, designated" means a portion of a street designated as a green street on a map in this Title.

* * *

Section 90. Section 23.84.016 of the Seattle Municipal Code, which Section was last amended by Ordinance 120611, is amended by amending and repealing subsections, and adding new subsections to be inserted in alphabetical order, as follows:

23.84.016 Definitions -- "H.

* * *

"Household, low-income" means a household whose income does not exceed eighty (80) percent of median income.

"Household, moderate income" means a household whose income does not exceed median income.

"Household, very low-income" means a household whose income does not exceed fifty (50) percent of median income.

"Housing, affordable" means (~~low, low-moderate or moderate income housing~~) a housing unit for which the occupant is paying no more than thirty (30)

percent of household income for gross housing costs, including an allowance for utility costs paid by the occupant.

"Housing, low-income" (~~((See "Low income housing."))~~) means housing affordable to, and occupied by, low-income households.

~~((("Housing, low moderate." See "Low moderate income housing."))~~)

"Housing, moderate income" ((~~See "Moderate income housing."~~)) means housing affordable to, and occupied by, moderate-income households.

"Housing, very low-income" means housing affordable to, and occupied by, very low-income households.

"Housing TDR site," See "TDR site, housing." (~~((means a lot meeting the following requirements:~~

~~1. The lot is located in any Downtown zone except PMM, DH 1, and DH 2 zones;~~

~~2. Each structure on the lot has a minimum of fifty (50) percent of total gross above grade floor area committed to low income housing or low and low moderate income housing use for a minimum of fifty (50) years;~~

~~3. The lot has above grade gross floor area equivalent to at least one (1) FAR committed to low income housing use for a minimum of fifty (50) years;~~

~~4. The above grade gross floor area on the lot committed to satisfy the conditions in subsections 2 and 3 of this definition is contained in one or more structures existing as of the date of passage of Ordinance 120443, and such area was in residential use as of such date, as demonstrated to the satisfaction of the Director of Housing; and~~

~~5. The low income housing or low and low moderate income
housing commitments on the lot provide for satisfaction of the standards in Section
23.49.012 B1b and are accepted by the Director of the Office of Housing.))~~

* * *

Section 91. Section 23.84.024 of the Seattle Municipal Code, which Section
was last amended by Ordinance 121477, is amended by amending and repealing
subsections, and adding new subsections to be inserted in alphabetical order, as
follows:

23.84.024 Definitions -- "L.

"Landmark housing TDR site." See "TDR site, Landmark housing."

~~(("Landmark performing arts theater" means a structure that:~~

~~1. Contains space that was designed for use primarily as, or is
suitable for use as, a performing arts theater;~~

~~2. Is located in ((one (1) of the following Downtown zones: DOC1,
DOC2, DRC, or DMC;~~

~~3. Is a designated Landmark under Chapter 25.12;~~

~~4. Is subject to an ordinance establishing incentives and controls, or
the owner of which shall agree, prior to the approval of any landmark theater
priority TDR under Section 23.49.033 and prior to the issuance of any building
permit for any structure receiving TDRs or a FAR bonus under any agreement with
respect to such theater, to an incentives and controls agreement approved by the
City Landmarks Preservation Board which agreement may be conditioned, with the
approval of such Board, on the approval of a specified amount of priority landmark~~

~~TDR for the lot on which such theater is located and/or on the purchase, lease, or
option by the City or a third party of a certain amount of development rights from
such lot on specified terms;~~

~~5. Has, or will have upon completion of a proposed plan or
rehabilitation, a minimum floor area devoted to performing arts theater space and
accessory uses of at least twenty thousand (20,000) square feet; and~~

~~6. Will be available, for the duration of any commitment made to
qualify for a FAR bonus, or to transfer development rights from the lot for live
theater performances no fewer than one hundred eighty (180) days per year.))~~

* * *

“LEED” (Leadership in Energy & Environmental Design) means the U.S.
Green Building Council’s Green Building Rating System™. LEED is a voluntary
consensus-based national standard for developing high-performance, sustainable
buildings. LEED provides standards for higher performance in the following
categories: Sustainable Sites, Water Efficiency, Energy and Atmosphere, Materials
and Resources, Indoor Environmental Quality, and Innovation and Design Process.

“LEED-CS” (LEED for Core & Shell) means a standard for core and shell
construction and covers base building elements, such as the structure, envelope and
building level systems. LEED-CS recognizes the division between owner and tenant
responsibility for design and construction of certain elements of the building.

“LEED-NC” (LEED for New Construction) means a standard for new
construction and major renovation projects. LEED-NC covers all building
elements, including core and shell and interiors. LEED-NC was designed for

1 commercial, institutional, high-rise residential, and mixed-use projects, but has also
2 been applied to K-12 schools, industrial, laboratories, and many other building
3 types.

4 “LEED Silver rating” means a level of performance for a new structure that
5 earns at least the minimum number of credits specified to achieve a “Silver”
6 certification either for “LEED-NC” or for “LEED-CS,” at the election of the
7 applicant, according to the criteria in the U.S. Green Building Council’s LEED
8 Green Building Rating System, LEED-NC Version 2.2 and LEED-CS Pilot
9 Version, copies of which are filed with the City Clerk in C.F. 307824, and
10 incorporated in this section by reference.

11 * * *

12 “Low-income elderly multifamily structure” means a structure in which at
13 least ninety (90) percent of the dwelling units are occupied by one (1) or more
14 persons sixty-two (62) or more years of age who constitute a low-income ~~((or low-~~
15 ~~moderate income))~~ household.

16 “Low-income elderly/low-income disabled multifamily structure” means a
17 multifamily structure in which at least ninety (90) percent of the dwelling units (not
18 including vacant units) are occupied by a low-income household ~~((or a low-~~
19 ~~moderate income household))~~ that includes a person who has a handicap as defined
20 in the Federal Fair Housing Amendment Act or a person sixty-two (62) years of age
21 or older, as long as the housing qualifies for exemptions from prohibitions against
22 discrimination against families with children and against age discrimination under
23 all applicable fair housing laws and ordinances.

"Low-income household." See "Household, low-income." ((means any household whose total household income is less than fifty (50) percent of the median income for comparably sized households in the Seattle Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.))

"Low-income housing." See "Housing, low-income." ((means any housing unit which is rented to a low income household at rents not to exceed thirty (30) percent of fifty (50) percent of the median income for comparably sized households in the Seattle Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.))

((("Low moderate income household means any household whose total household income is between fifty (50) percent and eighty (80) percent of the median income for comparably sized households in the Seattle Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.))

((("Low moderate income housing" means any housing unit which is rented to a low moderate income household at rents not to exceed thirty (30) percent of eighty (80) percent of the median income for comparably sized households in the Seattle Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.))

* * *

Section 92. Section 23.84.025 of the Seattle Municipal Code, which Section was last amended by Ordinance 121278, is amended by adding subsections, to be inserted in alphabetical order, as follows:

23.84.025 Definitions -- "M."

* * *

“Major retail store” means a structure or portion of a structure that provides adequate space of at least eighty thousand (80,000) square feet to accommodate the merchandising needs of a major new retailer with an established reputation, and providing a range of merchandise and services, including both personal and household items, to anchor downtown shopping activity around the retail core, thereby supporting other retail uses and the area’s vitality and regional draw for customers.

* * *

“Median income” means annual median family income for the Seattle area, as published from time to time by the U.S. Department of Housing and Urban Development (HUD), with adjustments according to household size in a manner determined by the Director, which adjustments shall be based upon a method used by the United States Department of Housing and Urban Development to adjust income limits for subsidized housing, and which adjustments for purposes of determining affordability of rents or sale prices shall be based on the average size of household considered to correspond to the size of the housing unit (one (1) person for studio units and one and a half (1.5) persons per bedroom for other units).

* * *

1 (~~("Moderate income housing" means any housing unit which is affordable to~~
2 ~~moderate income households, according to the Public Benefit Features Rule.))~~)

3 * * *

4 Section 93. The following subsection of Section 23.84.030 of the Seattle
5 Municipal Code, which Section was last amended by Ordinance 121700, is
6 amended as follows:

7 **Section 23.84.030 Definitions – "P."**

8 * * *

9 "Planned Community Development (PCD)" means a zoning process
10 (~~(which)~~) that authorizes exceptions from certain development standards for
11 structures on large tracts of land in certain downtown zones. A PCD is developed as
12 a single entity through a public process(~~(, and requires Council approval)~~).

13 * * *

14 Section 94. Section 23.84.032 of the Seattle Municipal Code, which Section
15 was last amended by Ordinance 121359, is amended by deleting subsections and
16 adding a subsection to be inserted in alphabetical order, as follows:

17 **23.84.032 Definitions – "R."**

18 * * *

19 (~~("Rooftop garden, interior accessible" means a public benefit feature~~
20 ~~consisting of an open space located on the roof of a structure which is accessible to~~
21 ~~the public from the lobby of the building and which is located no more than two~~
22 ~~hundred forty (240) feet above grade, and which provides such amenities as~~
23 ~~landscaping, seating and artwork.))~~)

1 (~~("Rooftop garden, street-accessible" means a public benefit feature~~
2 ~~consisting of an open space located on the roof of a structure which is accessible to~~
3 ~~the public from the street or a plaza and is no more than ten (10) feet above the~~
4 ~~elevation where public access is provided, and provides such amenities as~~
5 ~~landscaping, seating and artwork.))~~

6 * * *

7 "Rural development credit" means the allowance of floor area on a receiving
8 lot that results from the transfer of development potential from rural unincorporated
9 King County to the Downtown Urban Center pursuant to King County Code
10 Chapter 21A.55 or successor provisions and pursuant to the provisions of Section
11 23.49.011.

12 Section 95. Section 23.84.038 of the Seattle Municipal Code, which Section
13 was last amended by Ordinance 121278, is amended by amending subsections, and
14 adding new subsections to be inserted in alphabetical order, as follows:

15 **23.84.038 Definitions -- "T."**

16 * * *

17 "Transferable Development Rights" or "TDR" means development
18 potential, measured in square feet of gross floor area, that may be transferred from a
19 lot pursuant to provisions of this Title (~~(authorizing such transfer)~~). (~~(Such)~~) These
20 terms do not include development credits transferable from ~~((rural))~~ King County
21 pursuant to the City/County Transfer of Development Credits (TDC) program
22 established by Ordinance 119728, or other rural development credits, nor do they
23 include development capacity transferable between lots pursuant to Planned

1 Community Development provisions. These terms do not denote or imply that the
2 owner of TDR has a legal or vested right to construct or develop any project or to
3 establish any use.

4 “TDR, DMC housing” means TDR that are eligible for transfer based on the
5 status of the sending lot as a DMC housing TDR site and, if they would be eligible
6 for transfer on any other basis, are designated by the applicant seeking to use such
7 TDR on a receiving lot as DMC housing TDR.

8 "TDR, Landmark" means TDR that are eligible for transfer based on the
9 landmark status of the sending lot or a structure on such lot, except Landmark
10 housing TDR.

11 “TDR, Landmark housing” means TDR that are eligible for transfer based
12 on the status of the sending lot as a Landmark housing TDR site and, if they would
13 be eligible for transfer on any other basis, are designated by the applicant seeking to
14 use such TDR on a receiving lot as Landmark housing TDR.

15 "TDR, ~~((open space))~~open space" means ~~((development rights))~~ TDR that
16 may be transferred from a lot or lots based on the provision of public open space
17 meeting certain standards on that lot.

18 “TDR site, DMC housing” means a lot meeting the following requirements:

19 1. The lot is located in a Downtown Mixed Commercial (DMC)
20 zone;

21 2. Each structure to be developed on the lot has or will have a
22 minimum of fifty (50) percent of total gross above-grade floor area committed to
23

low-income housing for a minimum of fifty (50) years, unless such requirement is waived or modified by the Director of the Office of Housing for good cause;

3. The lot will have above-grade gross floor area equivalent to at least one (1) FAR committed to very low-income housing use for a minimum of fifty (50) years; and

4. The low-income housing and very low-income housing commitments on the lot comply with the standards in Section 23.49.012 B1b and are memorialized in a recorded agreement between the owner of such low-income and very low-income housing and the Director of the Office of Housing.

“TDR site, housing” means a lot meeting the following requirements:

1. The lot is located in any Downtown zone except PMM, DH-1 and DH-2 zones;

2. Each structure on the lot has a minimum of fifty (50) percent of total gross above-grade floor area committed to low-income housing for a minimum of fifty (50) years;

3. The lot has above-grade gross floor area equivalent to at least one (1) FAR committed to very low-income housing use for a minimum of fifty (50) years;

4. The above-grade gross floor area on the lot committed to satisfy the conditions in subsections 2 and 3 of this definition is contained in one or more structures existing as of the date of passage of Ordinance 120443 and such area was in residential use as of such date, as demonstrated to the satisfaction of the Director of the Office of Housing; and

1 5. The low-income housing and very low-income housing

2 commitments on the lot comply with the standards in Section 23.49.012 B1b and
3 are memorialized in a recorded agreement between the owner of such low-income
4 and very low-income housing and the Director of the Office of Housing.

5 “TDR site, Landmark housing” means a lot meeting the following
6 requirements:

7 1. The lot is located in any Downtown zone except IDM, IDR, PSM,
8 PMM, DH-1 and DH-2 zones;

9 2. The lot contains a designated landmark under SMC 25.12 and
10 such structure will be renovated to include a minimum of fifty (50) percent of total
11 gross above-grade floor area committed to low-income housing for a minimum of
12 fifty (50) years;

13 3. The lot has or will have above-grade gross floor area equivalent to
14 at least one (1) FAR committed to very low-income housing use for a minimum of
15 fifty (50) years;

16 4. The low-income housing and very low-income housing
17 commitments on the lot comply with the standards in Section 23.49.012 B1b and
18 are memorialized in a recorded agreement between the owner of such low-income
19 and very low-income housing and the Director of the Office of Housing.

20 * * *

Section 96. Section 23.84.042 of the Seattle Municipal Code, which Section was last amended by Ordinance 112777, is amended to add subsections, to be inserted in alphabetical order, as follows:

23.84.042 Definitions -- "V.

* * *

"Very low-income household." See "Household, very low-income."

"Very low-income housing." See "Housing, very low-income."

* * *

Section 97. Section 23.90.018 of the Seattle Municipal Code, which Section was last amended by Ordinance 120156, is amended as follows:

23.90.018 Civil penalty.

A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of Title 23 and who is identified in an order of the Director shall be subject to a cumulative penalty in the amount of Seventy-five Dollars (\$75) per day for each violation from the date set for compliance until the person complies with the requirements of the code, except as provided in subsection B of this section.

B. Violations of Section 23.71.018 are subject to penalty in the amount specified in Section 23.71.018 H. Violations of Section 23.49.011 or 23.49.015 with respect to failure to demonstrate compliance with commitments to earn LEED Silver ratings under either such Section are subject to penalty in amounts determined under Section 23.49.020, and not to any other penalty.

1 C. The penalty imposed by this section shall be collected by civil action
2 brought in the name of the City. The Director shall notify the City Attorney in
3 writing of the name of any person subject to the penalty, and the City Attorney
4 shall, with the assistance of the Director, take appropriate action to collect the
5 penalty. In any civil action for a penalty, the City has the burden of proving by a
6 preponderance of the evidence that a violation exists or existed; the issuance of the
7 notice of violation or of an order following a review by the Director is not itself
8 evidence that a violation exists.

9 D. Except in cases of violations of Section 23.49.011 or 23.49.015 with
10 respect to failure to demonstrate compliance with commitments to earn LEED
11 Silver ratings, ((F))the violator may show as full or partial mitigation of liability:

12 1. That the violation giving rise to the action was caused by the
13 wilful act, or neglect, or abuse of another; or

14 2. That correction of the violation was commenced promptly upon
15 receipt of the notice thereof, but that full compliance within the time specified was
16 prevented by inability to obtain necessary materials or labor, inability to gain access
17 to the subject structure, or other condition or circumstance beyond the control of the
18 defendant.

19 Section 98. Section 23.90.020 of the Seattle Municipal Code, which Section
20 was last amended by Ordinance 118414, is amended as follows:

21 **23.90.020 Criminal penalties.**

22 A. Any person violating or failing to comply with any of the provisions of
23 this Land Use Code and who has had a judgment entered against him or her

pursuant to Section 23.90.018 or its predecessors within the past five (5) years shall be subject to criminal prosecution and upon conviction of a subsequent violation shall be fined in a sum not exceeding Five Thousand Dollars (\$5,000) or be imprisoned in the City Jail for a term not exceeding one (1) year or be both fined and imprisoned. Each day of noncompliance with any of the provisions of this Land Use Code shall constitute a separate offense.

B. A criminal penalty, not to exceed Five Thousand Dollars (\$5,000) per occurrence, may be imposed:

1. For violations of Section 23.90.002 D;
2. For any other violation of this Code for which corrective action is not possible, other than violations with respect to commitments to earn LEED Silver ratings under SMC 23.49.011 or 23.49.015; and
3. For any wilful, intentional, or bad faith failure or refusal to comply with the standards or requirements of this Code.

Section 99. Of the fifteen codified maps at the end of the Seattle Municipal Code Chapter 23.49, four maps (1F Transit Access, 1N Retail and Short-term Parking Public Amenity Features, 1M Downtown Retail Core, and 1O Additional Height) are repealed; four maps (1B Street Classifications, 1C Sidewalk Widths, 1D View Corridors, and 1E Existing Public Benefit Features Under Title 24) are existing and not amended; five maps (1H Street Level Use Required, 1I Property Line Facades, 1J Parking Uses Permitted, 1K Public Amenity Features, and 1L Pike Place Market) are re-lettered in each case to use the preceding letter of the alphabet; and five maps (1A Downtown Zones, the relettered 1G Street Level Use Required,

1 the re-lettered 1I Parking Uses Permitted, the re-lettered 1J Public Amenity
2 Features, and the re-lettered 1K Pike Place Market) are amended to be codified at
3 the end of Chapter 23.49.

4 Section 100. The provisions of this ordinance are declared to be separate
5 and severable. The invalidity of any particular provision, or its invalidity as applied
6 in any circumstances, shall not affect the validity of any other provision or the
7 application of the particular provision in other circumstances.

8 To the extent that sections of this ordinance recodify or incorporate into new
9 or different sections provisions of the Seattle Municipal Code as previously in
10 effect, this ordinance shall be construed to continue such provisions in effect. The
11 repeal of various sections of Title 23 of the Seattle Municipal Code by this
12 ordinance shall not relieve any person of the obligation to comply with the terms
13 and conditions of any permit issued pursuant to the provisions of such Title as in
14 effect prior to such repeal, nor shall it relieve any person or property of any
15 obligations, conditions or restrictions in any agreement or instrument made or
16 granted pursuant to, or with reference to, the provisions of such Title in effect prior
17 to such repeal.

Section 101. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2006, and signed by me in open session in authentication of its passage this ____ day of _____, 2006.

President _____ of the City
Council

Approved by me this ____ day of _____, 2006.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2006.

City Clerk
(Seal)

Attachment 1: Rezones

Attachment 2: Amended Downtown Maps:

Map 1A, Downtown Zones, as amended;

Map 1G, (formerly Map 1H), Street Level Use Required, as amended;

Map 1I (formerly Map 1J), Parking Uses Permitted, as amended;

Map 1J (formerly Map 1K), Public Amenity Features, as amended;

Map 1K (formerly Map 1L), Pike Place Market, as amended.

Attachment 3: Downtown Amenity Standards

Attachment 4: Exhibits for Section 23.41.012:

Exhibit 23.41.012 A, Roosevelt Commercial Core

Exhibit 23.41.012 B, Ballard Municipal Center Master Plan Area

Attachment 5: Exhibit for Section 23.49.058

Exhibit 23.49.058E, Belltown Urban Center Village